

## ENSURING ACCESS TO PACIFIC FISHERIES ACT

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SEPTEMBER 6, 2016.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. BISHOP of Utah, from the Committee on Natural Resources,  
submitted the following

### R E P O R T

[To accompany H.R. 4576]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 4576) to implement the Convention on the Conservation and Management of High Seas Fisheries Resources in the North Pacific Ocean, to implement the Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Ensuring Access to Pacific Fisheries Act”.

## TITLE I—NORTH PACIFIC FISHERIES CONVENTION IMPLEMENTATION

#### SEC. 101. DEFINITIONS.

In this title:

(1) COMMISSION.—The term “Commission” means the North Pacific Fisheries Commission established in accordance with the North Pacific Fisheries Convention.

(2) COMMISSIONER.—The term “Commissioner” means a United States Commissioner appointed under section 102(a).

(3) CONVENTION AREA.—The term “Convention Area” means the area to which the Convention on the Conservation and Management of High Seas Fisheries Resources in the North Pacific Ocean applies under Article 4 of such Convention.

(4) COUNCIL.—The term “Council” means the North Pacific Fishery Management Council, the Pacific Fishery Management Council, or the Western Pacific

Fishery Management Council established under section 302 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852), as the context requires.

(5) EXCLUSIVE ECONOMIC ZONE.—The term “exclusive economic zone” means—

(A) with respect to the United States, the zone established by Presidential Proclamation Numbered 5030 of March 10, 1983 (16 U.S.C. 1453 note); and

(B) with respect to a foreign country, a designated zone similar to the zone referred to in subparagraph (A) for that country, consistent with international law.

(6) FISHERIES RESOURCES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term “fisheries resources” means all fish, mollusks, crustaceans, and other marine species caught by a fishing vessel within the Convention Area, as well as any products thereof.

(B) EXCLUSIONS.—The term “fisheries resources” does not include—

(i) sedentary species insofar as they are subject to the sovereign rights of coastal nations consistent with Article 77, paragraph 4 of the 1982 Convention and indicator species of vulnerable marine ecosystems as listed in, or adopted pursuant to, Article 13, paragraph 5 of the North Pacific Fisheries Convention;

(ii) catadromous species;

(iii) marine mammals, marine reptiles, or seabirds; or

(iv) other marine species already covered by preexisting international fisheries management instruments within the area of competence of such instruments.

(7) FISHING ACTIVITIES.—

(A) IN GENERAL.—The term “fishing activities” means—

(i) the actual or attempted searching for, catching, taking, or harvesting of fisheries resources;

(ii) engaging in any activity that can reasonably be expected to result in the locating, catching, taking, or harvesting of fisheries resources for any purpose;

(iii) the processing of fisheries resources at sea;

(iv) the transshipment of fisheries resources at sea or in port; or

(v) any operation at sea in direct support of, or in preparation for, any activity described in clauses (i) through (iv), including transshipment.

(B) EXCLUSIONS.—The term “fishing activities” does not include any operation related to an emergency involving the health or safety of a crew member or the safety of a fishing vessel.

(8) FISHING VESSEL.—The term “fishing vessel” means any vessel used or intended for use for the purpose of engaging in fishing activities, including a processing vessel, a support ship, a carrier vessel, or any other vessel directly engaged in such fishing activities.

(9) HIGH SEAS.—The term “high seas” does not include an area that is within the exclusive economic zone of the United States or of any other country.

(10) NORTH PACIFIC FISHERIES CONVENTION.—The term “North Pacific Fisheries Convention” means the Convention on the Conservation and Management of the High Seas Fisheries Resources in the North Pacific Ocean (including any annexes, amendments, or protocols that are in force, or have come into force) for the United States, which was adopted at Tokyo on February 24, 2012.

(11) PERSON.—The term “person” means—

(A) any individual, whether or not a citizen or national of the United States;

(B) any corporation, partnership, association, or other entity, whether or not organized or existing under the laws of any State; or

(C) any Federal, State, local, tribal, or foreign government or any entity of such government.

(12) SECRETARY.—Except as otherwise specifically provided, the term “Secretary” means the Secretary of Commerce.

(13) STATE.—The term “State” means each of the several States of the United States, the District of Columbia, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, and any other commonwealth, territory, or possession of the United States.

(14) STRADDLING STOCK.—The term “straddling stock” means a stock of fisheries resources that migrates between, or occurs in, the economic exclusion zone of one or more parties to the Convention and the Convention Area.

(15) TRANSSHIPMENT.—The term “transshipment” means the unloading of any fisheries resources taken in the Convention Area from one fishing vessel to another fishing vessel either at sea or in port.

(16) 1982 CONVENTION.—The term “1982 Convention” means the United Nations Convention on the Law of the Sea of 10 December 1982.

**SEC. 102. UNITED STATES PARTICIPATION IN THE NORTH PACIFIC FISHERIES CONVENTION.**

(a) UNITED STATES COMMISSIONERS.—

(1) NUMBER OF COMMISSIONERS.—The United States shall be represented on the Commission by 5 United States Commissioners.

(2) SELECTION OF COMMISSIONERS.—The Commissioners shall be as follows:

(A) APPOINTMENT BY THE PRESIDENT.—

(i) IN GENERAL.—Two of the Commissioners shall be appointed by the President and shall be an officer or employee of—

(I) the Department of Commerce;

(II) the Department of State; or

(III) the Coast Guard.

(ii) SELECTION CRITERIA.—In making each appointment under clause

(i), the President shall select a Commissioner from among individuals who are knowledgeable or experienced concerning fisheries resources in the North Pacific Ocean.

(B) NORTH PACIFIC FISHERY MANAGEMENT COUNCIL.—One Commissioner shall be the chairman of the North Pacific Fishery Management Council or a designee of such chairman.

(C) PACIFIC FISHERY MANAGEMENT COUNCIL.—One Commissioner shall be the chairman of the Pacific Fishery Management Council or a designee of such chairperson.

(D) WESTERN PACIFIC FISHERY MANAGEMENT COUNCIL.—One Commissioner shall be the chairman of the Western Pacific Fishery Management Council or a designee of such chairperson.

(b) ALTERNATE COMMISSIONERS.—In the event of a vacancy in a position as a Commissioner appointed under subsection (a), the Secretary of State, in consultation with the Secretary, may designate from time to time and for periods of time considered appropriate an alternate Commissioner to the Commission. An alternate Commissioner may exercise all powers and duties of a Commissioner in the absence of a Commissioner appointed under subsection (a), and shall serve the remainder of the term of the absent Commissioner for which designated.

(c) ADMINISTRATIVE MATTERS.—

(1) EMPLOYMENT STATUS.—An individual serving as a Commissioner, or an alternate Commissioner, other than an officer or employee of the United States Government, shall not be considered a Federal employee, except for the purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.

(2) COMPENSATION.—An individual serving as a Commissioner or an alternate Commissioner, although an officer of the United States while so serving, shall receive no compensation for the individual’s services as such Commissioner or alternate Commissioner.

(3) TRAVEL EXPENSES.—

(A) IN GENERAL.—The Secretary of State shall pay the necessary travel expenses of a Commissioner or an alternate Commissioner in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5, United States Code.

(B) REIMBURSEMENT.—The Secretary may reimburse the Secretary of State for amounts expended by the Secretary of State under this paragraph.

**SEC. 103. AUTHORITY AND RESPONSIBILITY OF THE SECRETARY OF STATE.**

The Secretary of State may—

(1) receive and transmit, on behalf of the United States, reports, requests, recommendations, proposals, decisions, and other communications of and to the Commission;

(2) in consultation with the Secretary, act upon, or refer to another appropriate authority, any communication received pursuant to paragraph (1);

(3) with the concurrence of the Secretary, and in accordance with the Convention, object to the decisions of the Commission; and

(4) request and utilize on a reimbursed or non-reimbursed basis the assistance, services, personnel, equipment, and facilities of other Federal departments and agencies, foreign governments or agencies, or international intergovernmental organizations, in the conduct of scientific research and other programs under this title.

**SEC. 104. AUTHORITY OF THE SECRETARY OF COMMERCE.**

(a) **PROMULGATION OF REGULATIONS.**—

(1) **AUTHORITY.**—The Secretary, in consultation with the Secretary of State and, with respect to enforcement measures, the Secretary of the department in which the Coast Guard is operating, may promulgate such regulations as may be necessary to carry out the United States international obligations under the North Pacific Fisheries Convention and this title, including recommendations and decisions adopted by the Commission.

(2) **REGULATIONS OF STRADDLING STOCKS.**—In the implementation of a measure adopted by the Commission that would govern a straddling stock under the authority of a Council, any regulation promulgated by the Secretary to implement such measure within the exclusive economic zone shall be approved by such Council.

(b) **RULE OF CONSTRUCTION.**—Regulations promulgated under subsection (a) shall be applicable only to a person or a fishing vessel that is or has engaged in fishing activities, or fisheries resources covered by the North Pacific Fisheries Convention under this title.

(c) **ADDITIONAL AUTHORITY.**—The Secretary may conduct, and may request and utilize on a reimbursed or nonreimbursed basis the assistance, services, personnel, equipment, and facilities of other Federal departments and agencies in—

- (1) scientific, research, and other programs under this title;
- (2) fishing operations and biological experiments for purposes of scientific investigation or other purposes necessary to implement the North Pacific Fisheries Convention;
- (3) the collection, utilization, and disclosure of such information as may be necessary to implement the North Pacific Fisheries Convention, subject to sections 552 and 552a of title 5, United States Code, and section 402(b) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1881a(b));
- (4) the issuance of permits to owners and operators of United States vessels to engage in fishing activities in the Convention Area seaward of the exclusive economic zone of the United States, under such terms and conditions as the Secretary may prescribe, including the period of time that a permit is valid; and
- (5) if recommended by the United States Commissioners, the assessment and collection of fees, not to exceed 3 percent of the ex-vessel value of fisheries resources harvested by vessels of the United States in fisheries conducted in the Convention Area, to recover the actual costs to the United States to carry out the functions of the Secretary under this title.

(d) **CONSISTENCY WITH OTHER LAWS.**—The Secretary shall ensure the consistency, to the extent practicable, of fishery management programs administered under this title, the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), the Tuna Conventions Act of 1950 (16 U.S.C. 951 et seq.), the South Pacific Tuna Act of 1988 (16 U.S.C. 973 et seq.), section 401 of Public Law 108–219 (16 U.S.C. 1821 note) (relating to Pacific albacore tuna), the Western and Central Pacific Fisheries Convention Implementation Act (16 U.S.C. 6901 et seq.), the National Oceanic and Atmospheric Administration Authorization Act of 1992 (Public Law 102–567) and the amendments made by that Act, and Public Law 100–629 (102 Stat. 3286).

(e) **JUDICIAL REVIEW OF REGULATIONS.**—

(1) **IN GENERAL.**—Regulations promulgated by the Secretary under this title shall be subject to judicial review to the extent authorized by, and in accordance with, chapter 7 of title 5, United States Code, if a petition for such review is filed not later than 30 days after the date on which the regulations are promulgated.

(2) **RESPONSES.**—Notwithstanding any other provision of law, the Secretary shall file a response to any petition filed in accordance with paragraph (1), not later than 30 days after the date the Secretary is served with that petition, except that the appropriate court may extend the period for filing such a response upon a showing by the Secretary of good cause for that extension.

(3) **COPIES OF ADMINISTRATIVE RECORD.**—A response of the Secretary under paragraph (2) shall include a copy of the administrative record for the regulations that are the subject of the petition.

(4) **EXPEDITED HEARINGS.**—Upon a motion by the person who files a petition under this subsection, the appropriate court shall assign the matter for hearing at the earliest possible date.

**SEC. 105. ENFORCEMENT.**

(a) **IN GENERAL.**—The Secretary and the Secretary of the department in which the Coast Guard is operating—

(1) shall administer and enforce this title and any regulations issued under this title; and

(2) may request and utilize on a reimbursed or nonreimbursed basis the assistance, services, personnel, equipment, and facilities of other Federal departments and agencies in the administration and enforcement of this title.

(b) SECRETARIAL ACTIONS.—The Secretary and the Secretary of the department in which the Coast Guard is operating shall prevent any person from violating this title with respect to fishing activities or the conservation of fisheries resources in the Convention Area in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though sections 308 through 311 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1858, 1859, 1860, and 1861) were incorporated into and made a part of this title. Any person that violates this title is subject to the penalties and entitled to the privileges and immunities provided in the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) in the same manner, by the same means, and with the same jurisdiction, power, and duties as though sections 308 through 311 of that Act (16 U.S.C. 1858, 1859, 1860, and 1861) were incorporated into and made a part of this title.

(c) JURISDICTION OF THE COURTS.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), the district courts of the United States shall have jurisdiction over any case or controversy arising under this title, and any such court may at any time—

(A) enter restraining orders or prohibitions;

(B) issue warrants, process in rem, or other process;

(C) prescribe and accept satisfactory bonds or other security; and

(D) take such other actions as are in the interest of justice.

(2) HAWAII AND PACIFIC INSULAR AREAS.—In the case of Hawaii or any possession of the United States in the Pacific Ocean, the appropriate court is the United States District Court for the District of Hawaii, except that—

(A) in the case of Guam and Wake Island, the appropriate court is the United States District Court for the District of Guam; and

(B) in the case of the Northern Mariana Islands, the appropriate court is the United States District Court for the District of the Northern Mariana Islands.

(3) CONSTRUCTION.—Each violation shall be a separate offense and the offense is deemed to have been committed not only in the district where the violation first occurred, but also in any other district authorized by law. Any offense not committed in any district is subject to the venue provisions of section 3238 of title 18, United States Code.

(d) CONFIDENTIALITY.—

(1) IN GENERAL.—Any information submitted to the Secretary in compliance with any requirement under this title, and information submitted under any requirement of this title that may be necessary to implement the Convention, including information submitted before the date of the enactment of this Act, shall be confidential and may not be disclosed, except—

(A) to a Federal employee who is responsible for administering, implementing, or enforcing this title;

(B) to the Commission, in accordance with requirements in the North Pacific Fisheries Convention and decisions of the Commission, and, insofar as possible, in accordance with an agreement with the Commission that prevents public disclosure of the identity or business of any person;

(C) to State, Council, or marine fisheries commission employees pursuant to an agreement with the Secretary that prevents public disclosure of the identity or business of any person;

(D) when required by court order; or

(E) when the Secretary has obtained written authorization from the person submitting such information to release such information to another person for a reason not otherwise provided for in this paragraph, and such release does not violate other requirements of this title.

(2) USE OF INFORMATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall promulgate regulations regarding the procedures the Secretary considers necessary to preserve the confidentiality of information submitted under this title.

(B) EXCEPTION.—The Secretary may release or make public information submitted under this title if the information is in any aggregate or summary form that does not directly or indirectly disclose the identity or business of any person.

(3) **RULE OF CONSTRUCTION.**—Nothing in this subsection shall be interpreted or construed to prevent the use for conservation and management purposes by the Secretary of any information submitted under this title.

**SEC. 106. PROHIBITED ACTS.**

It is unlawful for any person—

- (1) to violate this title or any regulation or permit issued under this title;
- (2) to use any fishing vessel to engage in fishing activities without, or after the revocation or during the period of suspension of, an applicable permit issued pursuant to this title;
- (3) to refuse to permit any officer authorized to enforce this title to board a fishing vessel subject to such person's control for the purposes of conducting any search, investigation, or inspection in connection with the enforcement of this title or any regulation, permit, or the North Pacific Fisheries Convention;
- (4) to assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer in the conduct of any search, investigation, or inspection in connection with the enforcement of this title or any regulation, permit, or the North Pacific Fisheries Convention;
- (5) to resist a lawful arrest for any act prohibited by this title or any regulation promulgated or permit issued under this title;
- (6) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any fisheries resources taken or retained in violation of this title or any regulation or permit referred to in paragraph (1) or (2);
- (7) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this section;
- (8) to submit to the Secretary false information (including false information regarding the capacity and extent to which a United States fish processor, on an annual basis, will process a portion of the optimum yield of a fishery that will be harvested by fishing vessels of the United States), regarding any matter that the Secretary is considering in the course of carrying out this title;
- (9) to assault, resist, oppose, impede, intimidate, sexually harass, bribe, or interfere with any observer on a vessel under this title, or any data collector employed by or under contract to any person to carry out responsibilities under this title;
- (10) to engage in fishing activities in violation of any regulation adopted pursuant to this title;
- (11) to fail to make, keep, or furnish any catch returns, statistical records, or other reports required by regulations adopted pursuant to this title to be made, kept, or furnished;
- (12) to fail to stop a vessel upon being hailed and instructed to stop by a duly authorized official of the United States;
- (13) to import, in violation of any regulation adopted pursuant to this title, any fisheries resources in any form of those species subject to regulation pursuant to a recommendation, resolution, or decision of the Commission, or any fisheries resources in any form not under regulation but under investigation by the Commission, during the period such fisheries resources have been denied entry in accordance with this title;
- (14) to make or submit any false record, account, or label for, or any false identification of, any fisheries resources that have been, or are intended to be imported, exported, transported, sold, offered for sale, purchased, or received in interstate or foreign commerce; or
- (15) to refuse to authorize and accept boarding by a duly authorized inspector pursuant to procedures adopted by the Commission for the boarding and inspection of fishing vessels in the Convention Area.

**SEC. 107. COOPERATION IN CARRYING OUT CONVENTION.**

(a) **FEDERAL AND STATE AGENCIES; PRIVATE INSTITUTIONS AND ORGANIZATIONS.**—The Secretary may cooperate with any Federal agency, any public or private institution or organization within the United States or abroad, and, through the Secretary of State, a duly authorized official of the government of any party to the North Pacific Fisheries Convention, in carrying out responsibilities under this title.

(b) **SCIENTIFIC AND OTHER PROGRAMS; FACILITIES AND PERSONNEL.**—Each Federal agency may, upon the request of the Secretary, cooperate in the conduct of scientific and other programs and furnish facilities and personnel for the purpose of assisting the Commission in carrying out its duties under the North Pacific Fisheries Convention.

(c) **SANCTIONED FISHING OPERATIONS AND BIOLOGICAL EXPERIMENTS.**—Nothing in this title, or in the laws of any State, prevents the Secretary or the Commission from—

(1) conducting or authorizing the conduct of fishing operations and biological experiments at any time for purposes of scientific investigation; or

(2) discharging any other duties prescribed by the North Pacific Fisheries Convention.

(d) **STATE JURISDICTION NOT AFFECTED.**—Nothing in this title shall be construed to diminish or to increase the jurisdiction of any State in the territorial sea of the United States.

#### **SEC. 108. TERRITORIAL PARTICIPATION.**

The Secretary of State shall ensure participation in the Commission and its subsidiary bodies by the Commonwealth of the Northern Mariana Islands, American Samoa, and Guam to the extent allowed under United States law.

#### **SEC. 109. EXCLUSIVE ECONOMIC ZONE NOTIFICATION.**

Masters of commercial fishing vessels of countries fishing under the management authority of the North Pacific Fisheries Convention that do not carry vessel monitoring systems capable of communicating with United States enforcement authorities shall, prior to or as soon as reasonably possible after, entering and transiting the exclusive economic zone bounded by the Convention Area, ensure that all fishing gear on board the vessel is stowed below deck or otherwise removed from the place it is normally used for fishing activities and placed where it is not readily available for fishing activities.

## **TITLE II—IMPLEMENTATION OF THE CONVENTION ON THE CONSERVATION AND MANAGEMENT OF HIGH SEAS FISHERY RESOURCES IN THE SOUTH PACIFIC OCEAN**

#### **SEC. 201. DEFINITIONS.**

In this title:

(1) **1982 CONVENTION.**—The term “1982 Convention” means the United Nations Convention on the Law of the Sea of 10 December 1982.

(2) **COMMISSION.**—The term “Commission” means the Commission of the South Pacific Regional Fisheries Management Organization established in accordance with the South Pacific Fishery Resources Convention.

(3) **CONVENTION AREA.**—The term “Convention Area” means the area to which the Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean applies under Article 5 of such Convention.

(4) **COUNCIL.**—The term “Council” means the Western Pacific Regional Fishery Management Council.

(5) **EXCLUSIVE ECONOMIC ZONE.**—The term “exclusive economic zone” means—  
(A) with respect to the United States, the zone established by Presidential Proclamation Numbered 5030 of March 10, 1983 (16 U.S.C. 1453 note); and

(B) with respect to a foreign country, a designated zone similar to the zone referred to in subparagraph (A) for that country, consistent with international law.

(6) **FISHERY RESOURCES.**—The term “fishery resources” means all fish, mollusks, crustaceans, and other marine species, and any products thereof, caught by a fishing vessel within the Convention Area, but excluding—

(A) sedentary species insofar as they are subject to the national jurisdiction of coastal States pursuant to Article 77 paragraph 4 of the 1982 Convention;

(B) highly migratory species listed in Annex I of the 1982 Convention;

(C) anadromous and catadromous species; and

(D) marine mammals, marine reptiles and sea birds.

(7) **FISHING.**—The term “fishing”—

(A) except as provided in subparagraph (B), means—

(i) the actual or attempted searching for, catching, taking, or harvesting of fishery resources;

(ii) engaging in any activity that can reasonably be expected to result in the locating, catching, taking or harvesting of fishery resources for any purpose;

(iii) transshipment and any operation at sea, in support of, or in preparation for, any activity described in this subparagraph; and

(iv) the use of any vessel, vehicle, aircraft, or hovercraft in relation to any activity described in this subparagraph; and

(B) does not include any operation related to emergencies involving the health and safety of crew members or the safety of a fishing vessel.

(8) FISHING VESSEL.—The term “fishing vessel” means any vessel used or intended to be used for fishing, including any fish processing vessel support ship, carrier vessel, or any other vessel directly engaged in fishing operations.

(9) PERSON.—The term “person” means any individual (whether or not a citizen or national of the United States); any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State); and any Federal, State, local, or foreign government or any entity of any such government.

(10) SECRETARY.—The term “Secretary” means the Secretary of Commerce.

(11) SOUTH PACIFIC FISHERY RESOURCES CONVENTION.—The term “South Pacific Fishery Resources Convention” means the Convention on the Conservation and Management of the High Seas Fishery Resources in the South Pacific Ocean (including any annexes, amendments, or protocols that are in force, or have come into force, for the United States), which was adopted at Auckland, New Zealand, on November 14, 2009, by the International Consultations on the Proposed South Pacific Regional Fisheries Management Organization.

(12) STATE.—The term “State” means each of the several States of the United States, the District of Columbia, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, and any other commonwealth, territory, or possession of the United States.

#### SEC. 202. APPOINTMENT OR DESIGNATION OF UNITED STATES COMMISSIONERS.

##### (a) APPOINTMENT.—

(1) IN GENERAL.—The United States shall be represented on the Commission by not more than 3 Commissioners. In making each appointment, the President shall select a Commissioner from among individuals who are knowledgeable or experienced concerning fishery resources in the South Pacific Ocean.

(2) REPRESENTATION.—At least one of the Commissioners shall be—

- (A) serving at the pleasure of the President, an officer or employee of—
  - (i) the Department of Commerce;
  - (ii) the Department of State; or
  - (iii) the Coast Guard; and
- (B) the chairperson or designee of the Council.

(b) ALTERNATE COMMISSIONERS.—The Secretary of State, in consultation with the Secretary, may designate from time to time and for periods of time considered appropriate an alternate Commissioner to the Commission. An alternate Commissioner may exercise all powers and duties of a Commissioner in the absence of a Commissioner appointed under subsection (a).

##### (c) ADMINISTRATIVE MATTERS.—

(1) EMPLOYMENT STATUS.—An individual serving as a Commissioner, or as an alternate Commissioner, other than an officer or employee of the United States Government, shall not be considered a Federal employee, except for the purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.

(2) COMPENSATION.—An individual serving as a Commissioner or an alternate Commissioner, although an officer of the United States while so serving, shall receive no compensation for the individual’s services as such Commissioner or alternate Commissioner.

##### (3) TRAVEL EXPENSES.—

(A) IN GENERAL.—The Secretary of State shall pay the necessary travel expenses of a Commissioner or an alternate Commissioner in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5, United States Code.

(B) REIMBURSEMENT.—The Secretary may reimburse the Secretary of State for amounts expended by the Secretary of State under this paragraph.

#### SEC. 203. AUTHORITY AND RESPONSIBILITY OF THE SECRETARY OF STATE.

The Secretary of State may—

(1) receive and transmit, on behalf of the United States, reports, requests, recommendations, proposals, decisions, and other communications of and to the Commission;

(2) in consultation with the Secretary, act upon, or refer to other appropriate authority, any communication pursuant to paragraph (1); and

(3) with the concurrence of the Secretary, and in accordance with the South Pacific Fishery Resources Convention, object to decisions of the Commission.

#### SEC. 204. RESPONSIBILITY OF THE SECRETARY AND RULEMAKING AUTHORITY.

(a) RESPONSIBILITIES.—The Secretary may—



(1) administer this title and any regulations issued under this title, except to the extent otherwise provided for in this title;

(2) issue permits to vessels subject to the jurisdiction of the United States, and to owners and operators of such vessels, to fish in the Convention Area, under such terms and conditions as the Secretary may prescribe; and

(3) if recommended by the United States Commissioners, assess and collect fees, not to exceed 3 percent of the ex-vessel value of fisheries resources harvested by vessels of the United States in fisheries conducted in the Convention Area, to recover the actual costs to the United States to carry out the functions of the Secretary under this title.

(b) PROMULGATION OF REGULATIONS.—

(1) IN GENERAL.—The Secretary, in consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, may promulgate such regulations as may be necessary and appropriate to carry out the international obligations of the United States under the South Pacific Fishery Resources Convention and this title, including decisions adopted by the Commission.

(2) APPLICABILITY.—Regulations promulgated under this subsection shall be applicable only to a person or fishing vessel that is or has engaged in fishing, and fishery resources covered by the Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean under this title.

(c) CONSISTENCY WITH OTHER LAWS.—The Secretary shall ensure the consistency, to the extent practicable, of fishery management programs administered under this title, the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), the Tuna Conventions Act of 1950 (16 U.S.C. 951 et seq.), the South Pacific Tuna Act of 1988 (16 U.S.C. 973 et seq.), section 401 of Public Law 108–219 (16 U.S.C. 1821 note) (relating to Pacific albacore tuna), the Western and Central Pacific Fisheries Convention Implementation Act (16 U.S.C. 6901 et seq.), the National Oceanic and Atmospheric Administration Authorization Act of 1992 (Public Law 102–567) and the amendments made by that Act, and Public Law 100–629 (102 Stat. 3286).

(d) JUDICIAL REVIEW OF REGULATIONS.—

(1) IN GENERAL.—Regulations promulgated by the Secretary under this title shall be subject to judicial review to the extent authorized by, and in accordance with, chapter 7 of title 5, United States Code, if a petition for such review is filed not later than 30 days after the date on which the regulations are promulgated or the action is published in the Federal Register, as applicable.

(2) RESPONSES.—Notwithstanding any other provision of law, the Secretary shall file a response to any petition filed in accordance with paragraph (1) not later than 30 days after the date the Secretary is served with that petition, except that the appropriate court may extend the period for filing such a response upon a showing by the Secretary of good cause for that extension.

(3) COPIES OF ADMINISTRATIVE RECORD.—A response of the Secretary under paragraph (2) shall include a copy of the administrative record for the regulations that are the subject of the petition.

(4) EXPEDITED HEARINGS.—Upon a motion by the person who files a petition under this subsection, the appropriate court shall assign the matter for hearing at the earliest possible date.

**SEC. 205. ENFORCEMENT.**

(a) RESPONSIBILITY.—This title, and any regulations or permits issued under this title, shall be enforced by the Secretary and the Secretary of the department in which the Coast Guard is operating. Such Secretaries shall, and the head of any Federal or State agency that has entered into an agreement with either such Secretary under this section may (if the agreement so provides), authorize officers to enforce this title or any regulation promulgated under this title. Any officer so authorized may enforce this title in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though section 311 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861) were incorporated into and made a part of this title.

(b) ADMINISTRATION AND ENFORCEMENT.—The Secretary shall prevent any person from violating this title in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though sections 308 through 311 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1858 through 1861) were incorporated into and made a part of this title. Any person that violates this title shall be subject to the penalties, and entitled to the privileges and immunities, provided in the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) in the same manner and by the same means as though sec-

tions 308 through 311 of that Act (16 U.S.C. 1858 through 1861) were incorporated into and made a part of this title.

(c) DISTRICT COURT JURISDICTION.—The district courts of the United States shall have jurisdiction over any actions arising under this section. Notwithstanding subsection (b), for the purpose of this section, for Hawaii or any possession of the United States in the Pacific Ocean, the appropriate court is the United States District Court for the District of Hawaii, except that in the case of Guam and Wake Island, the appropriate court is the United States District Court for the District of Guam, and except that in the case of the Northern Mariana Islands, the appropriate court is the United States District Court for the District of the Northern Mariana Islands. Each violation shall be a separate offense and the offense is deemed to have been committed not only in the district where the violation first occurred, but also in any other district as authorized by law. Any offenses not committed in any district are subject to the venue provisions of section 3238 of title 18, United States Code.

#### SEC. 206. PROHIBITED ACTS.

It is unlawful for any person—

- (1) to violate any provision of this title or of any regulation promulgated or permit issued under this title;
- (2) to use any fishing vessel to engage in fishing without a valid permit or after the revocation, or during the period of suspension, of an applicable permit pursuant to this title;
- (3) to refuse to permit any officer authorized to enforce this title to board a fishing vessel subject to such person's control for the purposes of conducting any investigation or inspection in connection with the enforcement of this title;
- (4) to assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer in the conduct of any search, investigation, or inspection in connection with the enforcement of this title or any regulation promulgated or permit issued under this title;
- (5) to resist a lawful arrest for any act prohibited by this title or any regulation promulgated or permit issued under this title;
- (6) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any fishery resources taken or retained in violation of this title or any regulation or permit referred to in paragraph (1) or (2);
- (7) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this title;
- (8) to submit to the Secretary false information, regarding any matter that the Secretary is considering in the course of carrying out this title;
- (9) to assault, resist, oppose, impede, intimidate, sexually harass, bribe, or interfere with any observer on a vessel pursuant to the requirements of this title, or any data collector employed by the National Oceanic and Atmospheric Administration or under contract to any person to carry out responsibilities under this title;
- (10) to fail to make, keep, or furnish any catch returns, statistical records, or other reports as are required by regulations adopted pursuant to this title to be made, kept, or furnished;
- (11) to fail to stop a vessel upon being hailed and instructed to stop by a duly authorized official of the United States;
- (12) to import, in violation of any regulation promulgated under this title, any fishery resources in any form of those species subject to regulation pursuant to a decision of the Commission;
- (13) to make or submit any false record, account, or label for, or any false identification of, any fishery resources that have been or are intended to be imported, exported, transported, sold, offered for sale, purchased, or received in interstate or foreign commerce; or
- (14) to refuse to authorize and accept boarding by a duly authorized inspector pursuant to procedures adopted by the Commission for the boarding and inspection of fishing vessels in the Convention Area.

#### SEC. 207. COOPERATION IN CARRYING OUT THE CONVENTION.

(a) FEDERAL AND STATE AGENCIES; PRIVATE INSTITUTIONS AND ORGANIZATIONS.—The Secretary may cooperate with agencies of the United States Government, any public or private institutions or organizations within the United States or abroad, and, through the Secretary of State, the duly authorized officials of the government of any party to the South Pacific Fishery Resources Convention, in carrying out responsibilities under this title.

(b) SCIENTIFIC AND OTHER PROGRAMS; FACILITIES AND PERSONNEL.—All Federal agencies may, upon the request of the Secretary, cooperate in the conduct of sci-

entific and other programs and to furnish facilities and personnel for the purpose of assisting the Commission in carrying out its duties under the South Pacific Fishery Resources Convention.

(c) **SANCTIONED FISHING OPERATIONS AND BIOLOGICAL EXPERIMENTS.**—Nothing in this title, or in the laws or regulations of any State, prevents the Secretary or the Commission from—

(1) conducting or authorizing the conduct of fishing operations and biological experiments at any time for purposes of scientific investigation; or

(2) discharging any other duties prescribed by the South Pacific Fishery Resources Convention.

(d) **STATE JURISDICTION NOT AFFECTED.**—Nothing in this title shall be construed to diminish or to increase the jurisdiction of any State in the territorial sea of the United States.

**SEC. 208. TERRITORIAL PARTICIPATION.**

The Secretary of State shall ensure participation in the Commission and its subsidiary bodies by American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands to the extent allowed under United States law.

**SEC. 209. EXCLUSIVE ECONOMIC ZONE NOTIFICATION.**

Masters of commercial fishing vessels of countries fishing under the management authority of the South Pacific Fisheries Convention that do not carry vessel monitoring systems capable of communicating with United States enforcement authorities shall, before or as soon as reasonably possible after, entering and transiting the exclusive economic zone bounded by the Convention Area, ensure that all fishing gear on board the vessel is stowed below deck or otherwise removed from the place it is normally used for fishing activities and placed where it is not readily available for fishing activities.

## **TITLE III—WESTERN AND CENTRAL PACIFIC FISHERIES COMMISSION**

**SEC. 301. RECOMMENDATIONS FOR AGENDA OF ANNUAL MEETINGS OF WESTERN AND CENTRAL PACIFIC FISHERIES COMMISSION.**

(a) **IN GENERAL.**—The Western and Central Pacific Fisheries Convention Implementation Act is amended—

(1) in section 503 (16 U.S.C. 6902)—

(A) in subsection (a), by inserting “and commercial fishing” after “fish stocks”; and

(B) in subsection (d)(1), by adding at the end the following:

“(E) **AGENDA RECOMMENDATIONS.**—No later than 30 days before each annual meeting of the Commission, the Advisory Committee shall transmit to the United States Commissioners recommendations relating to the agenda of the annual meeting. The recommendations must be agreed to by a majority of the Advisory Committee members. The United States Commissioners shall consider such recommendations, along with additional views transmitted by Advisory Committee members, in the formulation of the United States position for the Commission meeting and during the negotiations at that meeting.”; and

(2) by redesignating section 511 (16 U.S.C. 6910) as section 512, and inserting after section 510 the following:

**“SEC. 511. UNITED STATES CONSERVATION, MANAGEMENT, AND ENFORCEMENT OBJECTIVES.**

“The Secretary, in consultation with the Secretary of State, in the course of negotiations, shall seek to—

“(1) minimize any disadvantage to United States fishermen in relation to other members of the Commission;

“(2) maximize the opportunities for fishing vessels of the United States to harvest fish stocks on the high seas in the Convention area, recognizing that such harvests may be restricted if the Commission, based on the best available scientific information provided by the Scientific Committee, determines it is necessary to achieve the conservation objective set forth in Article 2 of the Convention;

“(3) prevent any requirement for the transfer to other nations or foreign entities of the fishing capacity, fishing capacity rights, or fishing vessels of the United States or its territories, unless any such requirement is voluntary and market-based; and

“(4) ensure that conservation and management measures take into consideration traditional fishing patterns of fishing vessels of the United States and the operating requirements of the fisheries covered by the Western and Central Pacific Convention.”.

(b) CONFORMING AMENDMENT.—Section 1(b) of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 is amended in the table of contents by striking the item relating to section 511 (121 Stat. 3576) and inserting the following:

“Sec. 511. United States conservation, management, and enforcement objectives.

“Sec. 512. Authorization of appropriations.”.

## **TITLE IV—ILLEGAL, UNREGULATED, AND UNREPORTED FISHING**

### **SEC. 401. AMENDMENTS TO THE HIGH SEAS DRIFTNET FISHING MORATORIUM PROTECTION ACT.**

(a) APPLICATION OF ACT.—Section 606(b) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826g(b)) is amended by striking “and” at the end of paragraph (7), striking the period at the end of paragraph (8) and inserting “; and”, and by adding at the end the following:

“(9) the Ensuring Access to Pacific Fisheries Act.”.

(b) BIENNIAL REPORTS.—Section 607 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826h) is amended by inserting “on June 1 of that year” after “every 2 years thereafter,”.

(c) IDENTIFICATION OF VESSELS.—Section 609(a) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j(a)) is amended by striking “fishing vessels of that nation are engaged, or have” and inserting “any fishing vessel of that nation is engaged, or has”.

(d) IDENTIFICATION OF NATIONS.—Section 610(a)(2)(A) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826k) is amended by striking “calendar year” and inserting “3 years”.

## **TITLE V—NORTHWEST ATLANTIC FISHERIES CONVENTION AMENDMENTS ACT**

### **SEC. 501. SHORT TITLE; REFERENCES TO THE NORTHWEST ATLANTIC FISHERIES CONVENTION ACT OF 1995.**

(a) SHORT TITLE.—This title may be cited as the “Northwest Atlantic Fisheries Convention Amendments Act”.

(b) REFERENCES TO THE NORTHWEST ATLANTIC FISHERIES CONVENTION ACT OF 1995.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Northwest Atlantic Fisheries Convention Act of 1995 (16 U.S.C. 5601 et seq.).

### **SEC. 502. REPRESENTATION OF THE UNITED STATES UNDER CONVENTION.**

Section 202 (16 U.S.C. 5601) is amended—

(1) in subsection (a)(1), by striking “General Council and the Fisheries”;

(2) in subsection (b)(1), by striking “at a meeting of the General Council or the Fisheries Commission”;

(3) in subsection (b)(2), by striking “, at any meeting of the General Council or the Fisheries Commission for which the Alternate Commissioner is designated”;

(4) in subsection (d)(1), by striking “at a meeting of the Scientific Council”;

(5) in subsection (d)(2), by striking “, at any meeting of the Scientific Council for which the Alternate Representative is designated”; and

(6) in subsection (f)(1)(A), by striking “Magnuson Act” and inserting “Magnuson-Stevens Fishery Conservation and Management Act”.

### **SEC. 503. REQUESTS FOR SCIENTIFIC ADVICE.**

Section 203 (16 U.S.C. 5602) is amended—

(1) in subsection (a)—

(A) by striking “The Representatives may” and inserting “A Representative may”;

(B) by striking “described in subsection (b)(1) or (2)” and inserting “described in paragraph (1) or (2) of subsection (b)”; and

(C) by striking “the Representatives have” and inserting “the Representative has”;

(2) by striking “VII(1)” each place it appears and inserting “VII(10)(b)”; and  
(3) in subsection (b)(2), by striking “VIII(2)” and inserting “VII(11)”.

**SEC. 504. AUTHORITIES OF SECRETARY OF STATE WITH RESPECT TO CONVENTION.**

Section 204 (16 U.S.C. 5603) is amended by striking “Fisheries Commission” each place it appears and inserting “Commission consistent with the procedures detailed in Articles XIV and XV of the Convention”.

**SEC. 505. INTERAGENCY COOPERATION.**

Section 205(a) (16 U.S.C. 5604(a)) is amended to read as follows:

“(a) **AUTHORITIES OF THE SECRETARY.**—In carrying out the provisions of the Convention and this title, the Secretary may arrange for cooperation with—

“(1) any department, agency, or instrumentality of the United States;

“(2) a State;

“(3) a Council; or

“(4) a private institution or an organization.”.

**SEC. 506. PROHIBITED ACTS AND PENALTIES.**

Section 207(a)(5) (16 U.S.C. 5606(a)(5)) is amended by striking “fish” and inserting “fishery resources”.

**SEC. 507. CONSULTATIVE COMMITTEE.**

Section 208 (16 U.S.C. 5607) is amended—

(1) in subsection (b)(2), by striking “two” and inserting “2”; and

(2) in subsection (c), by striking “General Council or the Fisheries” each place it appears.

**SEC. 508. DEFINITIONS.**

Section 210 (16 U.S.C. 5609) is amended to read as follows:

**“SEC. 210. DEFINITIONS.**

“In this title:

“(1) **1982 CONVENTION.**—The term ‘1982 Convention’ means the United Nations Convention on the Law of the Sea of 10 December 1982.

“(2) **AUTHORIZED ENFORCEMENT OFFICER.**—The term ‘authorized enforcement officer’ means a person authorized to enforce this title, any regulation issued under this title, or any measure that is legally binding on the United States under the Convention.

“(3) **COMMISSION.**—The term ‘Commission’ means the body provided for by Articles V, VI, XIII, XIV, and XV of the Convention.

“(4) **COMMISSIONER.**—The term ‘Commissioner’ means a United States Commissioner to the Northwest Atlantic Fisheries Organization appointed under section 202.

“(5) **CONVENTION.**—The term ‘Convention’ means the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries, done at Ottawa on October 24, 1978, and as amended on September 28, 2007.

“(6) **CONVENTION AREA.**—The term ‘Convention Area’ means the waters of the Northwest Atlantic Ocean north of 35°00’ N and west of a line extending due north from 35°00’ N and 42°00’ W to 59°00’ N, thence due west to 44°00’ W, and thence due north to the coast of Greenland, and the waters of the Gulf of St. Lawrence, Davis Strait and Baffin Bay south of 78°10’ N.

“(7) **COUNCIL.**—The term ‘Council’ means the New England Fishery Management Council or the Mid-Atlantic Fishery Management Council.

“(8) **FISHERY RESOURCES.**—

“(A) **IN GENERAL.**—The term ‘fishery resources’ means all fish, mollusks, and crustaceans, including any products thereof, within the Convention Area.

“(B) **EXCLUSIONS.**—The term ‘fishery resources’ does not include—

“(i) sedentary species over which coastal States may exercise sovereign rights consistent with Article 77 of the 1982 Convention; or

“(ii) in so far as they are managed under other international treaties, anadromous and catadromous stocks and highly migratory species listed in Annex I of the 1982 Convention.

“(9) **FISHING ACTIVITIES.**—

“(A) **IN GENERAL.**—The term ‘fishing activities’ means harvesting or processing fishery resources, or transshipping of fishery resources or products de-

rived from fishery resources, or any other activity in preparation for, in support of, or related to the harvesting of fishery resources.

“(B) INCLUSIONS.—The term ‘fishing activities’ includes—

“(i) the actual or attempted searching for or catching or taking of fishery resources;

“(ii) any activity that can reasonably be expected to result in locating, catching, taking, or harvesting of fishery resources for any purpose; and

“(iii) any operation at sea in support of, or in preparation for, any activity described in this paragraph.

“(C) EXCLUSIONS.—The term ‘fishing activities’ does not include any operation related to emergencies involving the health and safety of crew members or the safety of a vessel.

“(10) FISHING VESSEL.—

“(A) IN GENERAL.—The term ‘fishing vessel’ means a vessel that is or has been engaged in fishing activities.

“(B) INCLUSIONS.—The term ‘fishing vessel’ includes a fish processing vessel or a vessel engaged in transshipment or any other activity in preparation for or related to fishing activities, or in experimental or exploratory fishing activities.

“(11) ORGANIZATION.—The term ‘Organization’ means the Northwest Atlantic Fisheries Organization provided for by Article V of the Convention.

“(12) PERSON.—The term ‘person’ means any individual (whether or not a citizen or national of the United States), and any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State).

“(13) REPRESENTATIVE.—The term ‘Representative’ means a United States Representative to the Northwest Atlantic Fisheries Scientific Council appointed under section 202.

“(14) SCIENTIFIC COUNCIL.—The term ‘Scientific Council’ means the Scientific Council provided for by Articles V, VI, and VII of the Convention.

“(15) SECRETARY.—The term ‘Secretary’ means the Secretary of Commerce.

“(16) STATE.—The term ‘State’ means each of the several States of the United States, the District of Columbia, and any other commonwealth, territory, or possession of the United States.

“(17) TRANSSHIPMENT.—The term ‘transshipment’ means the unloading of all or any of the fishery resources on board a fishing vessel to another fishing vessel either at sea or in port.”.

#### SEC. 509. QUOTA ALLOCATION PRACTICE.

Section 213 (16 U.S.C. 5612) is repealed.

### PURPOSE OF THE BILL

The purpose of H.R. 4576 is to implement the Convention on the Conservation and Management of High Seas Fisheries Resources in the North Pacific Ocean, and to implement the Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean.

### BACKGROUND AND NEED FOR LEGISLATION

H.R. 4576, as amended, implements U.S. participation in three international fishery management agreements: the Convention on the Conservation and Management of High Seas Fisheries Resources in the North Pacific Ocean; the Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean; and the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries.

The bill also amends the Western and Central Pacific Fisheries Convention Implementation Act (Public Law 109–479, 16 U.S.C. 6901 et seq.) to help ensure that U.S. Commissioners to the Western and Central Pacific Fisheries Convention advocate positions that minimize disadvantages to U.S. fishermen in relation to other foreign entities party to that Convention.

The coordinated management of shared fishery stocks in international waters (201 or more miles from U.S. shore) is accomplished by nations participating in Regional Fisheries Management Organizations (RFMOs). According to the U.S. State Department, these international commissions guide and coordinate the fisheries management activities of multiple nations in a specific region. There are a number of RFMOs that the U.S. is party to, with the five major RFMOs being the Commission for the Conservation of Southern Bluefin Tuna, the Inter-American Tropical Tuna Commission, the International Commission for the Conservation of Atlantic Tuna, the Indian Ocean Tuna Commission, and the Western and Central Pacific Fisheries Commission.

According to the United Nations Food and Agriculture Organization, an RFMO—comprised of designees from each participating country and territory—fosters cooperative management of these shared resources. Cooperation under such a convention allows the U.S. to address fisheries resources not covered under preexisting fisheries management instruments and helps to prevent destructive fishing practices by other participating nations that may hurt domestic fisheries. H.R. 4576 authorizes the U.S. to participate and enforce regulations set by three RFMOs.

In 2006, delegations from the U.S., Japan, South Korea, and Russia met to begin negotiations on an agreement to address deep sea fishing practices occurring outside areas of national jurisdiction. The Convention, adopted in February 2012, established the North Pacific Fisheries Commission (NPFC). Through the NPFC, participating nations will cooperate to facilitate fisheries management. According to the NPFC, the Commission officially entered into force in July 2015 and is comprised of Canada, China, Japan, South Korea, Russia, Taiwan, and the U.S. The Convention also establishes a Scientific Committee and a Technical Compliance Committee to aid the NPFC in its decision making. These “subsidiary bodies” shall provide a report on the work of the NPFC after each meeting and advise and recommend actions as appropriate.

In 2006, delegations from Australia, Chile, and New Zealand began negotiations on an agreement to address fishing practices occurring outside areas of national jurisdiction. The United States, Belize, China, Denmark, Ecuador, the European Union, South Korea, Russia, Peru, several Pacific Island States, and Taiwan soon joined the negotiations. These negotiations resulted in a series of international meetings that ultimately led to the South Pacific Fisheries Convention, which was formally adopted by the negotiating parties on November 14, 2009. The Convention established the South Pacific Regional Fisheries Management Organization (SPRFMO). As spelled out in the Convention, a number of committees are established under the purview of the SPRFMO that are tasked with helping carry out the objectives set forth by the Convention: a Scientific Committee; a Compliance and Technical Committee; an Eastern Sub-regional Management Committee; a Western Sub-regional Management Committee; and a Finance and Administration Committee.

On April 22, 2013, the Obama Administration transmitted both the North and South Pacific Conventions to the U.S. Senate for ratification. Following the Senate’s ratification on April 3, 2014, the Administration determined that both agreements were not self-exe-

cuting, and that legislation was necessary to implement both conventions. H.R. 4576 implements both Conventions with a few changes proposed by some domestic regional fishery management councils. These changes to the Administration's proposal are necessary to ensure the councils' participation in the North and South Pacific Commissions while also assuring that any regulations adopted by the Commissions cannot supersede those of domestic federal fisheries managers. H.R. 4576 also ensures participation in these Commissions by the applicable U.S. Territories.

The bill also amends the Western and Central Pacific Fisheries Convention Implementation Act to help ensure access and equal treatment of United States boats fishing in the Convention waters. During the March 1, 2016, Subcommittee on Water, Power and Oceans hearing on H.R. 4576, regional fishery managers expressed serious concerns over the negotiation tactics and stances taken by the U.S. Commissioners of another RMFO, the Western and Central Pacific Fisheries Convention (WCPFC).<sup>1</sup> Title III of H.R. 4576 rectifies this by requiring that, in WCPFC negotiations, U.S. Commissioners advocate positions that minimize disadvantage to U.S. fishermen in relation to those of other participating nations while also requiring that the advisory committee to the U.S. Commissioners provide formal comments related to the formal agenda of a WCPFC meeting. Title III is important to American Samoa and other U.S. territories and U.S. tuna fishermen in the Pacific.

The Northwest Atlantic Fisheries Organization (NAFO) is an RFMO with a mandate to provide scientific advice and management of fisheries in the northwestern part of the Atlantic Ocean. Established in 1979, NAFO facilitates the long-term and sustainable use of most high-seas fisheries in the Northwest Atlantic. According to the Convention, NAFO's Convention area includes federal waters from Cape Hatteras, North Carolina, to Maine, although NAFO management measures apply primarily to the high seas portion of the Convention area. The United States joined NAFO in 1995.

According to NAFO, the RFMO launched a reform process in 2005 intended to improve the way it adopts conservation and management measures, strengthen compliance and enforcement provisions, and revise its underlying Convention. The United States was a leading voice in this effort, advocating to bring NAFO more in line with the principles of modern fisheries management and to address longstanding concerns about catch allocations and fair participation. The negotiations culminated on September 28, 2007, with the adoption of the Amendment to the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries.

Ensuring equitable budget contributions has long been a priority for the United States, which it advocated for to better correspond with the benefits parties receive. The amended Convention will not change the basic formula, but rather would amend the list of stocks used to calculate parties' respective catches to include only species under NAFO management or for which NAFO provides scientific advice, removing those fished exclusively in waters under a coastal nation's jurisdiction. This change may reduce U.S. dues by almost one-third.

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<sup>1</sup> <http://naturalresources.house.gov/calendar/eventsingle.aspx?EventID=399969>



The Amendment will enter into force 120 days after the nine contracting parties ratify it. According to NAFO, Canada, Cuba, the European Union, Norway, and the Russian Federation have ratified the Amendment. The United States signed the Convention on September 28, 2007. However, the Convention is not self-executing, meaning that ratification requires implementing legislation to conform U.S. domestic law to the requirements of the Convention. Title V of the bill ratifies U.S. participation in the amended Convention.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short title*

This section provides a short title for the bill, the Ensuring Access to Pacific Fisheries Act.

#### TITLE I—NORTH PACIFIC FISHERIES CONVENTION IMPLEMENTATION

##### *Section 101. Definitions*

This section provides definitions for the title.

##### *Section 102. United States participation in the North Pacific Fisheries Convention*

This section defines the process by which the U.S. will be represented in the North Pacific Fisheries Commission. Under this section, the U.S. will be represented on the Commission by five Commissioners, two of which shall be appointed by the President. The President's two appointments must be officers or employees of either the Department of Commerce, Department of State, or the Coast Guard and must be "knowledgeable or experienced" in North Pacific fishery resources. The remaining three U.S. Commissioners shall be the chairs or their designees from the North Pacific Fishery Management Council, the Pacific Fishery Management Council, and the Western Pacific Fishery Management Council.

This section also specifies that no U.S. Commissioner shall receive compensation for time served. However, the Department of State is responsible for travel expenses incurred while participating in Commission meetings. These expenses shall be reimbursed by the Secretary of Commerce.

##### *Section 103. Authority and responsibility of the Secretary of State*

This section specifies the Secretary of State's authority and responsibility under the North Pacific Fishery Convention. As this is an international convention, the Secretary of State is responsible for transmitting, on behalf of the U.S., all reports, requests, proposals, and decisions of the Commission.

##### *Section 104. Authority of the Secretary of Commerce*

This section specifies the Secretary of Commerce's authority and responsibility under the North Pacific Fishery Convention while also setting multiple safeguards to help ensure U.S. fishermen are not adversely impacted by regulations issued by the Commission. The main responsibility of the Secretary of Commerce under the Convention is to promulgate fishery regulations as necessary to meet U.S. obligations under the Convention. To ensure that the Commission does not set regulations that would supersede domes-

tic federal fishery policy, any regulation issued by the Secretary that would govern a fish stock that migrates between the Convention area and the U.S. Exclusive Economic Zone would have to be approved by the applicable Fishery Management Council prior to taking effect. There are also additional safeguards in this section requiring the Secretary to remain consistent with other established fishery laws, such as the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), as well as setting up a formal judicial review process for any action taken by the Secretary in relation to the Commission. This section allows the Secretary to issue permits to U.S. vessels to fish in the defined Convention area.

*Section 105. Enforcement*

This section creates a partnership between the Department of Commerce and the Coast Guard to enforce regulations administered under this Act.

*Section 106. Prohibited acts*

This section sets forth a list of prohibited acts under Title I of the bill. Most of these prohibited acts are defined to prevent illegal, unreported, and unregulated fishing efforts. The prohibited acts specifically include, among other things: violation of any regulation set forth by the authority under this title; fishing without the applicable permit; transporting, purchasing, or selling illegally retained fish; or submitting false information to the Secretary.

*Section 107. Cooperation in carrying out Convention*

This section establishes agreements with federal and state agencies as well as private organizations to carry out U.S. obligations under the Convention. The section also preserves state jurisdiction over its resources under this Act.

*Section 108. Territorial participation*

This section ensures territorial participation in the Commission by American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

*Section 109. Exclusive economic zone notification*

This section requires that captains of any fishing vessel from a country participating in the Convention must have all fishing gear stowed below deck while in U.S. waters.

TITLE II—IMPLEMENTATION OF THE CONVENTION ON THE CONSERVATION AND MANAGEMENT OF THE HIGH SEAS FISHERY RESOURCES IN THE SOUTH PACIFIC OCEAN

*Section 201. Definitions*

This section provides definitions for the title.

*Section 202. Appointment or Designation of United States Commissioners*

This section defines the process by which the U.S. will be represented in the South Pacific Fisheries Commission, as created under this Act. Under this section, the U.S. will be represented on

the Commission by three Commissioners, two of which shall be appointed by the President. At least one of the President's appointments must be an officer or employee of either the Department of Commerce, Department of State, or the Coast Guard and must be "knowledgeable or experienced" in South Pacific fishery resources. The remaining U.S. Commissioner shall be the chair or the chair's designee from the Western Pacific Fishery Management Council.

This section also specifies that no U.S. Commissioner shall receive compensation for time served on the Commission. However, the Department of State is responsible for travel expenses incurred while participating in Commission meetings. These expenses shall be reimbursed by the Secretary of Commerce.

*Section 203. Authority and responsibility of the Secretary of State*

This section specifies the Secretary of State's authority and responsibility under the South Pacific Fishery Convention. As this is an international convention, the Secretary of State is responsible for transmitting, on behalf of the U.S., all reports, requests, proposals, and decisions of the Commission.

*Section 204. Responsibility of the Secretary and rulemaking authority*

This section specifies the Secretary of Commerce's authority and responsibility under the South Pacific Fishery Convention while also setting multiple safeguards to ensure U.S. fishermen are not adversely impacted by regulations set forth by the Commission. The main responsibility of the Secretary of Commerce under the convention is to promulgate fishery regulations as necessary to meet U.S. obligations under the Convention. There are also additional safeguards in this section requiring the Secretary to remain consistent with other established fishery laws, such as the Magnuson-Stevens Fishery Conservation and Management Act, as well as setting up a formal judicial review process for any action taken by the Secretary in relation to the Commission. Finally, this section allows the Secretary to issue permits to U.S. vessels to fish in the defined Convention area.

*Section 205. Enforcement*

This section creates a partnership between the Department of Commerce and the Coast Guard to enforce any regulations administered under this Act under the same jurisdictional power set forth under sections 308–311 of the Magnuson-Stevens Fishery Conservation and Management Act.

*Section 206. Prohibited acts*

This section sets forth a list of prohibited acts under Title II of the bill. Most of these prohibited acts are defined to prevent illegal, unreported, and unregulated fishing efforts. The prohibited acts include, among other things: violation of any regulation set forth by the authority under this title; fishing without the applicable permit; transporting, purchasing, or selling illegally retained fish; or submitting false information to the Secretary.

*Section 207. Cooperation in carrying out the Convention*

This section establishes agreements with federal and state agencies as well as private organizations to carry out U.S. obligations under the Convention.

*Section 208. Territorial participation*

This section ensures territorial participation in the Commission by American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

*Section 209. Exclusive economic zone notification*

This section requires that captains of any fishing vessel from a country participating in the Convention must have all fishing gear stowed below deck while in U.S. waters.

TITLE III—WESTERN AND CENTRAL PACIFIC FISHERIES COMMISSION

*Section 301. Recommendations for agenda of annual meetings of Western and Central Pacific Fisheries Commission*

This section amends the Western and Central Pacific Fisheries Convention Implementation Act (Public Law 109–479). This section requires that in Western and Central Pacific Fisheries Commission (WCPFC) negotiations, the Secretaries of Commerce and State advocate for U.S. positions that minimize—to the extent practicable—disadvantage to U.S. fishermen in relation to those of other participating nations. This section also requires that, no later than 30 days prior to the annual meeting of the WCPFC, the advisory committee can provide formal comments to the U.S. Commissioners related to the formal agenda of the meeting. Currently, the advisory committee for the WCPFC meets annually, but does not have to provide any formal comment or advice to the Commission.

TITLE IV—ILLEGAL, UNREGULATED, AND UNREPORTED FISHING

*Section 401. Amendments to the High Seas Driftnet Fishing Moratorium Protection Act*

This section, added at Committee markup, amends section 606(a) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826g) to add the North and South Pacific Fishery Conventions. This is intended to prevent illegal, unregulated, and unreported fishing and is consistent with Public Law 114–81, the Illegal, Unreported, and Unregulated Fishing Enforcement Act of 2015, which was signed into law on November 5, 2015.

TITLE V—NORTHWEST ATLANTIC FISHERIES CONVENTION  
AMENDMENTS ACT

This title, added at Committee markup, makes a series of administrative changes to the Northwest Atlantic Fisheries Convention Act of 1995 (16 U.S.C. 5601 et seq.). This title includes changes that would reflect the amended Convention’s restructuring of the Northwest Atlantic Fisheries Organization, allowing for U.S. participation in its modernized governing bodies and more robust scientific activities.

## COMMITTEE ACTION

H.R. 4576 was introduced on February 12, 2016, by Congresswoman Aumua Amata Coleman Radewagen (R-AS). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Water, Power and Oceans. On March 1, 2016, the Subcommittee held a hearing on the bill. On July 12, 2016, the Natural Resources Committee met to consider the bill. The Subcommittee was discharged by unanimous consent. Congresswoman Radewagen offered an amendment designated 001; it was adopted by unanimous consent. No additional amendments were offered and the bill, as amended, was ordered favorably reported to the House of Representatives by unanimous consent on July 13, 2016.

## COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

## COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation and the Congressional Budget Act. With respect to the requirements of clause 3(c)(2) and (3) of Rule XIII of the Rules of the House of Representatives and sections 308(a) and 402 of the Congressional Budget Act of 1974, the Committee has received the enclosed cost estimate for the bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, September 2, 2016.*

Hon. ROB BISHOP,  
*Chairman, Committee on Natural Resources,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4576, the Ensuring Access to Pacific Fisheries Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Robert Reese.

Sincerely,

KEITH HALL.

Enclosure.

*H.R. 4576—Ensuring Access to Pacific Fisheries Act*

H.R. 4576 would implement the Conventions on the Conservation and Management of High Seas Fisheries Resources in the North and South Pacific Ocean (Pacific Conventions), which require participating parties to apply specific conservation and management principles and approaches to promote the sustainable use of fisheries located in the North and South Pacific Ocean. The bill also would amend the Northwest Atlantic Fisheries Convention Act to implement an amendment to the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries, which gov-

erns the Northwest Atlantic Fisheries Organization (NAFO). That amendment would detail NAFO's objectives; outline general management principles for the Northwest Atlantic Ocean; and describe the duties of all parties to that Convention related to inspections, reports, compliance, and enforcement.

Based on information from the National Oceanic and Atmospheric Administration (NOAA), the Coast Guard, and the Department of State, CBO estimates that implementing H.R. 4576 would cost \$2.5 million over the 2017–2021 period for annual dues, staff time, travel, and programmatic activities. Such spending would be subject to the availability of appropriated funds.

Enacting this legislation could increase revenues and associated direct spending; therefore, pay-as-you-go procedures apply. H.R. 4576 would authorize NOAA to impose a fee of up to 3 percent of the value of resources harvested from fisheries located in areas covered by the Pacific Conventions. Such fees, which would apply to all U.S. fishing boats operating in those areas, would be classified as revenues. The bill also would authorize NOAA to collect civil and criminal fines from anyone who violates the provisions outlined in the bill. Based on information from the agency about the value of resources harvested each year by U.S. vessels from the covered fisheries and the relatively low number of civil and criminal violations likely to occur, CBO estimates any increase in revenues under the bill would not exceed \$500,000 in any year. Because such amounts would be partially offset by a corresponding increase in direct spending, CBO estimates that enacting the bill would have a negligible net effect on the deficit.

CBO estimates that enacting the legislation would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

CBO has reviewed titles III and IV of H.R. 4576 and determined that those provisions contain no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). CBO has not reviewed titles I, II, or V for intergovernmental or private-sector mandates. Section 4 of UMRA excludes from the application of that act any legislative provisions that are necessary for the ratification or implementation of international treaty obligations. CBO has determined that those titles fall within that exclusion because they implement international fishing treaties.

H.R. 4576 contains provisions related to international fishery agreements that are substantively similar to provisions of other bills for which CBO has transmitted cost estimates. In particular, on June 1, 2015, CBO transmitted cost estimates for three bills that were ordered reported by the Senate Committee on Commerce, Science, and Transportation on May 20, 2015, including:

- S. 1251, the Northwest Atlantic Fisheries Convention Amendments Act;
- S. 1335, the North Pacific Fisheries Convention Implementation Act; and
- S. 1336, the South Pacific Fisheries Convention Implementation Act.

Our estimate of spending subject to appropriation under H.R. 4576 is the same as for substantively similar provisions of the other three bills. In addition, provisions of H.R. 4576 related to cer-

tain fees and fines that could be levied on fishing operators would increase both revenues and direct spending. None of the Senate bills contained any such provisions.

The CBO staff contacts for this estimate are Robert Reese (for federal costs), Zachary Byrum (for intergovernmental mandates), and Amy Petz (for private-sector mandates). The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

2. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to implement the Convention on the Conservation and Management of High Seas Fisheries Resources in the North Pacific Ocean, and to implement the Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean.

#### EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

#### COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

#### COMPLIANCE WITH H. RES. 5

Directed Rule Making. The Chairman believes this bill directs the Secretary of Commerce of the conduct one specific rule-making proceeding.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95-220, as amended by Public Law 98-169) as relating to other programs.

#### PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

#### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

## MAGNUSON-STEVENSON FISHERY CONSERVATION AND MANAGEMENT REAUTHORIZATION ACT OF 2006

### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

\* \* \* \* \*

### TITLE V—IMPLEMENTATION OF WESTERN AND CENTRAL PACIFIC FISHERIES CONVENTION

\* \* \* \* \*

**[Sec. 511. Authorization of appropriations.]**

*Sec. 511. United States conservation, management, and enforcement objectives.*

*Sec. 512. Authorization of appropriations.*

\* \* \* \* \*

## TITLE V—IMPLEMENTATION OF WEST- ERN AND CENTRAL PACIFIC FISH- ERIES CONVENTION

### SEC. 501. SHORT TITLE.

This title may be cited as the “Western and Central Pacific Fisheries Convention Implementation Act”.

\* \* \* \* \*

### SEC. 503. APPOINTMENT OF UNITED STATES COMMISSIONERS.

(a) **IN GENERAL.**—The United States shall be represented on the Commission by 5 United States Commissioners. The President shall appoint individuals to serve on the Commission at the pleasure of the President. In making the appointments, the President shall select Commissioners from among individuals who are knowledgeable or experienced concerning highly migratory fish stocks *and commercial fishing* in the Western and Central Pacific Ocean, one of whom shall be an officer or employee of the Department of Commerce, and one of whom shall be the chairman or a member of the Western Pacific Fishery Management Council, and one of whom shall be the chairman or a member of the Pacific Fishery Management Council. The Commissioners shall be entitled to adopt such rules of procedures as they find necessary and to select a chairman from among members who are officers or employees of the United States Government.

(b) **ALTERNATE COMMISSIONERS.**—The Secretary of State, in consultation with the Secretary, may designate from time to time and for periods of time deemed appropriate Alternate United States Commissioners to the Commission. Any Alternate United States Commissioner may exercise at any meeting of the Commission, Council, any Panel, or the advisory committee established pursuant to subsection (d), all powers and duties of a United States Commissioner in the absence of any Commissioner appointed pursuant to subsection (a) of this section for whatever reason. The number of



such Alternate United States Commissioners that may be designated for any such meeting shall be limited to the number of United States Commissioners appointed pursuant to subsection (a) of this section who will not be present at such meeting.

(c) ADMINISTRATIVE MATTERS.—

(1) EMPLOYMENT STATUS.—Individuals serving as such Commissioners, other than officers or employees of the United States Government, shall not be considered Federal employees except for the purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.

(2) COMPENSATION.—The United States Commissioners or Alternate Commissioners, although officers of the United States while so serving, shall receive no compensation for their services as such Commissioners or Alternate Commissioners.

(3) TRAVEL EXPENSES.—

(A) The Secretary of State shall pay the necessary travel expenses of United States Commissioners and Alternate United States Commissioners in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5, United States Code.

(B) The Secretary may reimburse the Secretary of State for amounts expended by the Secretary of State under this subsection.

(d) ADVISORY COMMITTEES.—

(1) ESTABLISHMENT OF PERMANENT ADVISORY COMMITTEE.—

(A) MEMBERSHIP.—There is established an advisory committee which shall be composed of—

(i) not less than 15 nor more than 20 individuals appointed by the Secretary of Commerce in consultation with the United States Commissioners, who shall select such individuals from the various groups concerned with the fisheries covered by the WCPFC Convention, providing, to the maximum extent practicable, an equitable balance among such groups;

(ii) the chair of the Western Pacific Fishery Management Council's Advisory Committee or the chair's designee; and

(iii) officials of the fisheries management authorities of American Samoa, Guam, and the Northern Mariana Islands (or their designees).

(B) TERMS AND PRIVILEGES.—Each member of the advisory committee appointed under subparagraph (A) shall serve for a term of 2 years and shall be eligible for reappointment. The advisory committee shall be invited to attend all non-executive meetings of the United States Commissioners and at such meetings shall be given opportunity to examine and to be heard on all proposed programs of investigation, reports, recommendations, and regulations of the Commission.

(C) PROCEDURES.—The advisory committee established by subparagraph (A) shall determine its organization, and prescribe its practices and procedures for carrying out its functions under this chapter, the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et

seq.), and the WCPFC Convention. The advisory committee shall publish and make available to the public a statement of its organization, practices, and procedures. A majority of the members of the advisory committee shall constitute a quorum. Meetings of the advisory committee, except when in executive session, shall be open to the public, and prior notice of meetings shall be made public in a timely fashion. and the advisory committee shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

(D) PROVISION OF INFORMATION.—The Secretary and the Secretary of State shall furnish the advisory committee with relevant information concerning fisheries and international fishery agreements.

(E) AGENDA RECOMMENDATIONS.—*No later than 30 days before each annual meeting of the Commission, the Advisory Committee shall transmit to the United States Commissioners recommendations relating to the agenda of the annual meeting. The recommendations must be agreed to by a majority of the Advisory Committee members. The United States Commissioners shall consider such recommendations, along with additional views transmitted by Advisory Committee members, in the formulation of the United States position for the Commission meeting and during the negotiations at that meeting.*

(2) ADMINISTRATIVE MATTERS.—

(A) SUPPORT SERVICES.—The Secretary shall provide to advisory committees in a timely manner such administrative and technical support services as are necessary for their effective functioning.

(B) COMPENSATION; STATUS; EXPENSES.—Individuals appointed to serve as a member of an advisory committee—

(i) shall serve without pay, but while away from their homes or regular places of business in the performance of services for the advisory committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code; and

(ii) shall not be considered Federal employees except for the purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.

(f) MEMORANDUM OF UNDERSTANDING.—For highly migratory species in the Pacific, the Secretary, in coordination with the Secretary of State, shall develop a memorandum of understanding with the Western Pacific, Pacific, and North Pacific Fishery Management Councils, that clarifies the role of the relevant Council or Councils with respect to—

(1) participation in United States delegations to international fishery organizations in the Pacific Ocean, including government-to-government consultations;

(2) providing formal recommendations to the Secretary and the Secretary of State regarding necessary measures for both domestic and foreign vessels fishing for these species;

(3) coordinating positions with the United States delegation for presentation to the appropriate international fishery organization; and

(4) recommending those domestic fishing regulations that are consistent with the actions of the international fishery organization, for approval and implementation under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.)

**SEC. 511. UNITED STATES CONSERVATION, MANAGEMENT, AND ENFORCEMENT OBJECTIVES.**

*The Secretary, in consultation with the Secretary of State, in the course of negotiations, shall seek to—*

*(1) minimize any disadvantage to United States fishermen in relation to other members of the Commission;*

*(2) maximize the opportunities for fishing vessels of the United States to harvest fish stocks on the high seas in the Convention area, recognizing that such harvests may be restricted if the Commission, based on the best available scientific information provided by the Scientific Committee, determines it is necessary to achieve the conservation objective set forth in Article 2 of the Convention;*

*(3) prevent any requirement for the transfer to other nations or foreign entities of the fishing capacity, fishing capacity rights, or fishing vessels of the United States or its territories, unless any such requirement is voluntary and market-based; and*

*(4) ensure that conservation and management measures take into consideration traditional fishing patterns of fishing vessels of the United States and the operating requirements of the fisheries covered by the Western and Central Pacific Convention.*

**SEC. [511.] 512. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the Secretary of Commerce such sums as may be necessary to carry out this title and to pay the United States' contribution to the Commission under section 5 of part III of the WCPFC Convention.

\* \* \* \* \*

**FISHERIES ACT OF 1995**

\* \* \* \* \*

**TITLE II—IMPLEMENTATION OF CONVENTION ON FUTURE  
MULTILATERAL COOPERATION IN THE NORTHWEST AT-  
LANTIC FISHERIES**

**SEC. 201. SHORT TITLE.**

This title may be cited as the “Northwest Atlantic Fisheries Convention Act of 1995”.

**SEC. 202. REPRESENTATION OF UNITED STATES UNDER CONVENTION.**

(a) COMMISSIONERS.—

(1) APPOINTMENTS, GENERALLY.—The Secretary shall appoint not more than 3 individuals to serve as the representatives of the United States on the [General Council and the Fisheries] Commission, who shall each—

(A) be known as a “United States Commissioner to the Northwest Atlantic Fisheries Organization”; and

(B) serve at the pleasure of the Secretary.

(2) REQUIREMENTS FOR APPOINTMENTS.—

(A) The Secretary shall ensure that of the individuals serving as Commissioners—

(i) at least 1 is appointed from among representatives of the commercial fishing industry;

(ii) 1 (but no more than 1) is an official of the Government; and

(iii) 1, other than the individual appointed under clause (ii), is a voting member of the New England Fishery Management Council.

(B) The Secretary may not appoint as a Commissioner an individual unless the individual is knowledgeable and experienced concerning the fishery resources to which the Convention applies.

(3) TERMS.—

(A) The term of an individual appointed as a Commissioner—

(i) shall be specified by the Secretary at the time of appointment; and

(ii) may not exceed 4 years.

(B) An individual who is not a Government official may not serve more than 2 consecutive terms as a Commissioner.

(b) ALTERNATE COMMISSIONERS.—

(1) APPOINTMENT.—The Secretary may, for any anticipated absence of a duly appointed Commissioner [at a meeting of the General Council or the Fisheries Commission], designate an individual to serve as an Alternate Commissioner.

(2) FUNCTIONS.—An Alternate Commissioner may exercise all powers and perform all duties of the Commissioner for whom the Alternate Commissioner is designated[, at any meeting of the General Council or the Fisheries Commission for which the Alternate Commissioner is designated].

(c) REPRESENTATIVES.—

(1) APPOINTMENT.—The Secretary shall appoint not more than 3 individuals to serve as the representatives of the United States on the Scientific Council, who shall each be known as a “United States Representative to the Northwest Atlantic Fisheries Organization Scientific Council”.

(2) ELIGIBILITY FOR APPOINTMENT.—

(A) The Secretary may not appoint an individual as a Representative unless the individual is knowledgeable and experienced concerning the scientific issues dealt with by the Scientific Council.

(B) The Secretary shall appoint as a Representative at least 1 individual who is an official of the Government.

(3) TERM.—An individual appointed as a Representative—

- (A) shall serve for a term of not to exceed 4 years, as specified by the Secretary at the time of appointment;
  - (B) may be reappointed; and
  - (C) shall serve at the pleasure of the Secretary.
- (d) ALTERNATE REPRESENTATIVES.—
- (1) APPOINTMENT.—The Secretary may, for any anticipated absence of a duly appointed Representative [at a meeting of the Scientific Council], designate an individual to serve as an Alternate Representative.
  - (2) FUNCTIONS.—An Alternate Representative may exercise all powers and perform all duties of the Representative for whom the Alternate Representative is designated[, at any meeting of the Scientific Council for which the Alternate Representative is designated].
- (e) EXPERTS AND ADVISERS.—The Commissioners, Alternate Commissioners, Representatives, and Alternate Representatives may be accompanied at meetings of the Organization by experts and advisers.
- (f) COORDINATION AND CONSULTATION.—
- (1) IN GENERAL.—In carrying out their functions under the Convention, Commissioners, Alternate Commissioners, Representatives, and Alternate Representatives shall—
    - (A) coordinate with the appropriate Regional Fishery Management Councils established by section 302 of the [Magnuson Act] *Magnuson-Stevens Fishery Conservation and Management Act* (16 U.S.C. 1852); and
    - (B) consult with the committee established under section 208.
  - (2) RELATIONSHIP TO OTHER LAW.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to coordination and consultations under this subsection.
- SEC. 203. REQUESTS FOR SCIENTIFIC ADVICE.**
- (a) RESTRICTION.—[The Representatives may] *A Representative may* not make a request or specification described in [subsection (b)(1) or (2)] *paragraph (1) or (2) of subsection (b)*, respectively, unless [the Representatives have] *the Representative has* first—
    - (1) consulted with the appropriate Regional Fishery Management Councils; and
    - (2) received the consent of the Commissioners for that action.
  - (b) REQUESTS AND TERMS OF REFERENCE DESCRIBED.—The requests and specifications referred to in subsection (a) are, respectively—
    - (1) any request, under Article [VII(1)] *VII(10)(b)* of the Convention, that the Scientific Council consider and report on a question pertaining to the scientific basis for the management and conservation of fishery resources in waters under the jurisdiction of the United States within the Convention Area; and
    - (2) any specification, under Article [VIII(2)] *VII(11)* of the Convention, of the terms of reference for the consideration of a question referred to the Scientific Council pursuant to Article [VII(1)] *VII(10)(b)* of the Convention.

**SEC. 204. AUTHORITIES OF SECRETARY OF STATE WITH RESPECT TO CONVENTION.**

The Secretary of State may, on behalf of the Government of the United States—

- (1) receive and transmit reports, requests, recommendations, proposals, and other communications of and to the Organization and its subsidiary organs;
- (2) object, or withdraw an objection, to the proposal of the **[Fisheries Commission]** *Commission consistent with the procedures detailed in Articles XIV and XV of the Convention*;
- (3) give or withdraw notice of intent not to be bound by a measure of the **[Fisheries Commission]** *Commission consistent with the procedures detailed in Articles XIV and XV of the Convention*;
- (4) object or withdraw an objection to an amendment to the Convention; and
- (5) act upon, or refer to any other appropriate authority, any other communication referred to in paragraph (1).

**SEC. 205. INTERAGENCY COOPERATION.**

**[(a) AUTHORITIES OF SECRETARY.—**In carrying out the provisions of the Convention and this title, the Secretary may arrange for cooperation with other agencies of the United States, the States, the New England and the Mid-Atlantic Fishery Management Councils, and private institutions and organizations.**]**

*(a) AUTHORITIES OF THE SECRETARY.—In carrying out the provisions of the Convention and this title, the Secretary may arrange for cooperation with—*

- (1) any department, agency, or instrumentality of the United States;*
- (2) a State;*
- (3) a Council; or*
- (4) a private institution or an organization.*

**(b) OTHER AGENCIES.—**The head of any Federal agency may—

- (1) cooperate in the conduct of scientific and other programs, and furnish facilities and personnel, for the purposes of assisting the Organization in carrying out its duties under the Convention; and
- (2) accept reimbursement from the Organization for providing such services, facilities, and personnel.

\* \* \* \* \*

**SEC. 207. PROHIBITED ACTS AND ENFORCEMENT.**

**(a) PROHIBITION.—**It is unlawful for any person or vessel that is subject to the jurisdiction of the United States—

- (1) to violate any regulation issued under this title or any measure that is legally binding on the United States under the Convention;
- (2) to refuse to permit any authorized enforcement officer to board a fishing vessel that is subject to the person's control for purposes of conducting any search, investigation, or inspection in connection with the enforcement of this title, any regulation issued under this title, or any measure that is legally binding on the United States under the Convention;
- (3) forcibly to assault, resist, oppose, impede, intimidate, or interfere with any authorized enforcement officer in the con-

duct of any search, investigation, or inspection described in paragraph (2);

(4) to resist a lawful arrest for any act prohibited by this section;

(5) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any **[fish]** *fishery resources* taken or retained in violation of this section; or

(6) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that the other person has committed an act prohibited by this section.

(b) **ADDITIONAL PROHIBITIONS AND ENFORCEMENT.**—For additional prohibitions relating to this Act and enforcement of this Act, see section 606 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826g).

**SEC. 208. CONSULTATIVE COMMITTEE.**

(a) **ESTABLISHMENT.**—The Secretary of State and the Secretary, shall jointly establish a consultative committee to advise the Secretaries on issues related to the Convention.

(b) **MEMBERSHIP.**—

(1) The membership of the Committee shall include representatives from the New England and Mid-Atlantic Fishery Management Councils, the States represented on those Councils, the Atlantic States Marine Fisheries Commission, the fishing industry, the seafood processing industry, and others knowledgeable and experienced in the conservation and management of fisheries in the Northwest Atlantic Ocean.

(2) **TERMS AND REAPPOINTMENT.**—Each member of the consultative committee shall serve for a term of **[two]** 2 years and shall be eligible for reappointment.

(c) **DUTIES OF THE COMMITTEE.**—Members of the consultative committee may attend—

(1) all public meetings of the **[General Council or the Fisheries]** Commission;

(2) any other meetings to which they are invited by the **[General Council or the Fisheries]** Commission; and

(3) all nonexecutive meetings of the United States Commissioners.

(d) **RELATIONSHIP TO OTHER LAW.**—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the consultative committee established under this section.

\* \* \* \* \*

**[SEC. 210. DEFINITIONS**

**[In this title the following definitions apply:**

**[(1) AUTHORIZED ENFORCEMENT OFFICER.**—The term “authorized enforcement officer” means a person authorized to enforce this title, any regulation issued under this title, or any measure that is legally binding on the United States under the Convention.

**[(2) COMMISSIONER.**—The term “Commissioner” means a United States Commissioner to the Northwest Atlantic Fisheries Organization appointed under section 202(a).

[(3) CONVENTION.—The term “Convention” means the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries, done at Ottawa on October 24, 1978.

[(4) FISHERIES COMMISSION.—The term “Fisheries Commission” means the Fisheries Commission provided for by Articles II, XI, XII, XIII, and XIV of the Convention.

[(5) GENERAL COUNCIL.—The term “General Council” means the General Council provided for by Article II, III, IV, and V of the Convention.

[(6) MAGNUSON ACT.—The term “Magnuson Act” means the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

[(7) ORGANIZATION.—The term “Organization” means the Northwest Atlantic Fisheries Organization provided for by Article II of the Convention.

[(8) PERSON.—The term “person” means any individual (whether or not a citizen or national of the United States), and any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State).

[(9) REPRESENTATIVE.—The term “Representative” means a United States Representative to the Northwest Atlantic Fisheries Scientific Council appointed under section 202(c).

[(10) SCIENTIFIC COUNCIL.—The term “Scientific Council” means the Scientific Council provided for by Articles II, VI, VII, VIII, IX, and X of the Convention.

[(11) SECRETARY.—The term “Secretary” means the Secretary of Commerce.]

#### **SEC. 210. DEFINITIONS.**

*In this title:*

(1) 1982 CONVENTION.—*The term “1982 Convention” means the United Nations Convention on the Law of the Sea of 10 December 1982.*

(2) AUTHORIZED ENFORCEMENT OFFICER.—*The term “authorized enforcement officer” means a person authorized to enforce this title, any regulation issued under this title, or any measure that is legally binding on the United States under the Convention.*

(3) COMMISSION.—*The term “Commission” means the body provided for by Articles V, VI, XIII, XIV, and XV of the Convention.*

(4) COMMISSIONER.—*The term “Commissioner” means a United States Commissioner to the Northwest Atlantic Fisheries Organization appointed under section 202.*

(5) CONVENTION.—*The term “Convention” means the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries, done at Ottawa on October 24, 1978, and as amended on September 28, 2007.*

(6) CONVENTION AREA.—*The term “Convention Area” means the waters of the Northwest Atlantic Ocean north of 35°00' N and west of a line extending due north from 35°00' N and 42°00' W to 59°00' N, thence due west to 44°00' W, and thence due north to the coast of Greenland, and the waters of the Gulf of St. Lawrence, Davis Strait and Baffin Bay south of 78°10' N.*



(7) *COUNCIL.*—The term “Council” means the New England Fishery Management Council or the Mid-Atlantic Fishery Management Council.

(8) *FISHERY RESOURCES.*—

(A) *IN GENERAL.*—The term “fishery resources” means all fish, mollusks, and crustaceans, including any products thereof, within the Convention Area.

(B) *EXCLUSIONS.*—The term “fishery resources” does not include—

(i) sedentary species over which coastal States may exercise sovereign rights consistent with Article 77 of the 1982 Convention; or

(ii) in so far as they are managed under other international treaties, anadromous and catadromous stocks and highly migratory species listed in Annex I of the 1982 Convention.

(9) *FISHING ACTIVITIES.*—

(A) *IN GENERAL.*—The term “fishing activities” means harvesting or processing fishery resources, or transshipping of fishery resources or products derived from fishery resources, or any other activity in preparation for, in support of, or related to the harvesting of fishery resources.

(B) *INCLUSIONS.*—The term “fishing activities” includes—

(i) the actual or attempted searching for or catching or taking of fishery resources;

(ii) any activity that can reasonably be expected to result in locating, catching, taking, or harvesting of fishery resources for any purpose; and

(iii) any operation at sea in support of, or in preparation for, any activity described in this paragraph.

(C) *EXCLUSIONS.*—The term “fishing activities” does not include any operation related to emergencies involving the health and safety of crew members or the safety of a vessel.

(10) *FISHING VESSEL.*—

(A) *IN GENERAL.*—The term “fishing vessel” means a vessel that is or has been engaged in fishing activities.

(B) *INCLUSIONS.*—The term “fishing vessel” includes a fish processing vessel or a vessel engaged in transshipment or any other activity in preparation for or related to fishing activities, or in experimental or exploratory fishing activities.

(11) *ORGANIZATION.*—The term “Organization” means the Northwest Atlantic Fisheries Organization provided for by Article V of the Convention.

(12) *PERSON.*—The term “person” means any individual (whether or not a citizen or national of the United States), and any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State).

(13) *REPRESENTATIVE.*—The term “Representative” means a United States Representative to the Northwest Atlantic Fisheries Scientific Council appointed under section 202.

(14) *SCIENTIFIC COUNCIL.*—The term “Scientific Council” means the Scientific Council provided for by Articles V, VI, and VII of the Convention.

(15) *SECRETARY.*—The term “Secretary” means the Secretary of Commerce.

(16) *STATE.*—The term “State” means each of the several States of the United States, the District of Columbia, and any other commonwealth, territory, or possession of the United States.

(17) *TRANSSHIPMENT.*—The term “transshipment” means the unloading of all or any of the fishery resources on board a fishing vessel to another fishing vessel either at sea or in port.

\* \* \* \* \*

#### **[SEC. 213. QUOTA ALLOCATION PRACTICE.**

[(a) *IN GENERAL.*—The Secretary of Commerce, acting through the Secretary of State, shall promptly seek to establish a new practice for allocating quotas under the Convention that—

[(1) is predictable and transparent;

[(2) provides fishing opportunities for all members of the Organization; and

[(3) is consistent with the Straddling Fish Stocks Agreement.

[(b) *REPORT.*—The Secretary of Commerce shall include in annual reports under section 212—

[(1) a description of the results of negotiations held pursuant to subsection (a);

[(2) an identification of barriers to achieving such a new allocation practice; and

[(3) recommendations for any further legislation that is necessary to achieve such a new practice.

[(c) *DEFINITION.*—In this section the term “Straddling Fish Stocks Agreement” means the United Nations Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks.]

\* \* \* \* \*

### **TITLE VI—DRIFTNET MORATORIUM**

#### **SEC. 601. SHORT TITLE.**

This title may be cited as the “High Seas Driftnet Fishing Moratorium Protection Act”.

\* \* \* \* \*

#### **SEC. 606. ENFORCEMENT.**

(a) *IN GENERAL.*—The Secretary and the Secretary of the department in which the Coast Guard is operating shall enforce this Act, and the Acts to which this section applies, in accordance with this section. Each such Secretary may, by agreement, on a reimbursable basis or otherwise, utilize the personnel services, equipment (including aircraft and vessels), and facilities of any other Federal agency, and of any State agency, in the performance of such duties.

(b) *ACTS TO WHICH SECTION APPLIES.*—This section applies to—

(1) the Pacific Salmon Treaty Act of 1985 (16 U.S.C. 3631 et seq.);

(2) the Dolphin Protection Consumer Information Act (16 U.S.C. 1385);

(3) the Tuna Conventions Act of 1950 (16 U.S.C. 951 et seq.);

(4) the North Pacific Anadromous Stocks Act of 1992 (16 U.S.C. 5001 et seq.);

(5) the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971 et seq.);

(6) the Northwest Atlantic Fisheries Convention Act of 1995 (16 U.S.C. 5601 et seq.);

(7) the Western and Central Pacific Fisheries Convention Implementation Act (16 U.S.C. 6901 et seq.); [and]

(8) the Antigua Convention Implementing Act of 2015[.];  
and

(9) *the Ensuring Access to Pacific Fisheries Act*.

(c) ADMINISTRATION AND ENFORCEMENT.—

(1) IN GENERAL.—The Secretary shall prevent any person from violating this Act, or any Act to which this section applies, in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though sections 308 through 311 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1858 through 1861) were incorporated into and made a part of and applicable to this Act and each such Act.

(2) INTERNATIONAL COOPERATION.—The Secretary may, subject to appropriations and in the course of carrying out the Secretary's responsibilities under the Acts to which this section applies, engage in international cooperation to help other nations combat illegal, unreported, and unregulated fishing and achieve sustainable fisheries.

(d) SPECIAL RULES.—

(1) ADDITIONAL ENFORCEMENT AUTHORITY.—In addition to the powers of officers authorized pursuant to subsection (c), any officer who is authorized by the Secretary, or the head of any Federal or State agency that has entered into an agreement with the Secretary under subsection (a), may enforce the provisions of any Act to which this section applies, with the same jurisdiction, powers, and duties as though section 311 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861) were incorporated into and made a part of each such Act.

(2) DISCLOSURE OF ENFORCEMENT INFORMATION.—

(A) IN GENERAL.—The Secretary, subject to the data confidentiality provisions in section 402 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1881a), may disclose, as necessary and appropriate, information, including information collected under joint authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) and the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 71 et seq.) or the Western and Central Pacific Fisheries Convention Implementation Act (16 U.S.C. 6901 et seq.) or other statutes implementing international fishery agreements, to any other Federal or State government agency, the Food and Agriculture Organization of the United Nations, the secretariat or equivalent of an international fishery man-

agement organization or arrangement made pursuant to an international fishery agreement, or a foreign government, if—

(i) such government, organization, or arrangement has policies and procedures to protect such information from unintended or unauthorized disclosure; and

(ii) such disclosure is necessary—

(I) to ensure compliance with any law or regulation enforced or administered by the Secretary;

(II) to administer or enforce any international fishery agreement to which the United States is a party;

(III) to administer or enforce a binding conservation measure adopted by any international organization or arrangement to which the United States is a party;

(IV) to assist in any investigative, judicial, or administrative enforcement proceeding in the United States; or

(V) to assist in any law enforcement action undertaken by a law enforcement agency of a foreign government, or in relation to a legal proceeding undertaken by a foreign government to the extent the enforcement action is consistent with rules and regulations of a regional fisheries management organization (as that term is defined by the United Nation's Food and Agriculture Organization Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing) of which the United States is a member, or the Secretary has determined that the enforcement action is consistent with the requirements under Federal law for enforcement actions with respect to illegal, unreported, and unregulated fishing.

(B) DATA CONFIDENTIALITY PROVISIONS NOT APPLICABLE.—The data confidentiality provisions of section 402 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1881a) shall not apply with respect to this Act with respect to—

(i) any obligation of the United States to share information under a regional fisheries management organization (as that term is defined by the United Nation's Food and Agriculture Organization Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing) of which the United States is a member; or

(ii) any information collected by the Secretary regarding foreign vessels.

(e) PROHIBITED ACTS.—It is unlawful for any person—

(1) to violate any provision of this Act or any regulation or permit issued pursuant to this Act;

(2) to refuse to permit any officer authorized to enforce the provisions of this Act to board, search, or inspect a vessel, subject to such person's control for the purposes of conducting any

search, investigation, or inspection in connection with the enforcement of this Act, any regulation promulgated under this Act, or any Act to which this section applies;

(3) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer in the conduct of any search, investigation, or inspection described in paragraph (2);

(4) to resist a lawful arrest for any act prohibited by this section or any Act to which this section applies;

(5) to interfere with, delay, or prevent, by any means, the apprehension, arrest, or detection of another person, knowing that such person has committed any act prohibited by this section or any Act to which this section applies; or

(6) to forcibly assault, resist, oppose, impede, intimidate, sexually harass, bribe, or interfere with—

(A) any observer on a vessel under this Act or any Act to which this section applies; or

(B) any data collector employed by the National Marine Fisheries Service or under contract to any person to carry out responsibilities under this Act or any Act to which this section applies.

(f) **CIVIL PENALTY.**—Any person who commits any act that is unlawful under subsection (e) shall be liable to the United States for a civil penalty, and may be subject to a permit sanction, under section 308 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1858).

(g) **CRIMINAL PENALTY.**—Any person who commits an act that is unlawful under subsection (e)(2), (e)(3), (e)(4), (e)(5), or (e)(6) is deemed to be guilty of an offense punishable under section 309(b) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1859(b)).

(h) **UTILIZATION OF FEDERAL AGENCY ASSETS.**—The President shall utilize appropriate assets of the Department of Defense, the United States Coast Guard, and other Federal agencies to detect, monitor, and prevent violations of the United Nations moratorium on large-scale driftnet fishing on the high seas for all fisheries under the jurisdiction of the United States and, in the case of fisheries not under the jurisdiction of the United States, to the fullest extent permitted under international law.

#### **SEC. 607. BIENNIAL REPORT ON INTERNATIONAL COMPLIANCE.**

The Secretary, in consultation with the Secretary of State, shall provide to Congress, by not later than 2 years after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, and every 2 years thereafter, on June 1 of that year a report that includes—

(1) the state of knowledge on the status of international living marine resources shared by the United States or subject to treaties or agreements to which the United States is a party, including a list of all such fish stocks classified as overfished, overexploited, depleted, endangered, or threatened with extinction by any international or other authority charged with management or conservation of living marine resources;

(2) a list of nations that have been identified under section 609(a) or 610(a), including the specific offending activities and any subsequent actions taken pursuant to section 609 or 610;

(3) a description of efforts taken by nations on those lists to comply take appropriate corrective action consistent with sections 609 and 610, and an evaluation of the progress of those efforts, including steps taken by the United States to implement those sections and to improve international compliance;

(4) progress at the international level, consistent with section 608, to strengthen the efforts of international fishery management organizations to end illegal, unreported, or unregulated fishing; and

(5) steps taken by the Secretary at the international level to adopt international measures comparable to those of the United States to reduce impacts of fishing and other practices on protected living marine resources, if no international agreement to achieve such goal exists, or if the relevant international fishery or conservation organization has failed to implement effective measures to end or reduce the adverse impacts of fishing practices on such species.

\* \* \* \* \*

#### **SEC. 609. ILLEGAL, UNREPORTED, OR UNREGULATED FISHING.**

##### **(a) IDENTIFICATION.—**

(1) **IDENTIFICATION FOR ACTIONS OF FISHING VESSELS.**—The Secretary shall, based on a cumulative compilation and analysis of data collected and provided by international fishery management organizations and other nations and organizations, identify, and list in the report under section 607, a nation if **any fishing vessel of that nation is engaged, or has** *any fishing vessel of that nation is engaged, or has* been engaged at any point during the preceding 3 years, in illegal, unreported, or unregulated fishing—

(A) that undermines the effectiveness of measures required by an international fishery management organization, taking into account whether the relevant international fishery management organization has failed to implement effective measures to end the illegal, unreported, or unregulated fishing activity by that nation or the nation is not a party to, or does not maintain cooperating status with, such organization; or

(B) where no international fishery management organization exists with a mandate to regulate the fishing activity in question.

(2) **IDENTIFICATION FOR ACTIONS OF NATION.**—Taking into account the factors described under section 609(a)(1), the Secretary shall also identify, and list in such report, a nation—

(A) if it is violating, or has violated at any point during the preceding 3 years, conservation and management measures required under an international fishery management agreement to which the United States is a party and the violations undermine the effectiveness of such measures; or

(B) if it is failing, or has failed in the preceding 3-year period, to effectively address or regulate illegal, unreported, or unregulated fishing in areas described under paragraph (1)(B).

(3) APPLICATION TO OTHER ENTITIES.—Where the provisions of this Act are applicable to nations, they shall also be applicable, as appropriate, to other entities that have competency to enter into international fishery management agreements.

(b) NOTIFICATION.—The Secretary shall notify the President and that nation of such an identification.

(c) CONSULTATION.—No later than 60 days after submitting a report to Congress under section 607, the Secretary, acting through the Secretary of State, shall—

(1) notify nations listed in the report of the requirements of this section;

(2) initiate consultations for the purpose of encouraging such nations to take the appropriate corrective action with respect to the offending activities of their fishing vessels identified in the report; and

(3) notify any relevant international fishery management organization of the actions taken by the United States under this section.

(d) IUU CERTIFICATION PROCEDURE.—

(1) CERTIFICATION.—The Secretary shall establish a procedure, consistent with the provisions of subchapter II of chapter 5 of title 5, United States Code, for determining if a nation identified under subsection (a) and listed in the report under section 607 has taken appropriate corrective action with respect to the offending activities identified in the report under section 607. The certification procedure shall provide for notice and an opportunity for comment by any such nation. The Secretary shall determine, on the basis of the procedure, and certify to the Congress no later than 90 days after the date on which the Secretary promulgates a final rule containing the procedure, and biennially thereafter in the report under section 607—

(A) whether the government of each nation identified under subsection (a) has provided documentary evidence that it has taken corrective action with respect to the offending activities identified in the report; or

(B) whether the relevant international fishery management organization has implemented measures that are effective in ending the illegal, unreported, or unregulated fishing activity by vessels of that nation.

(2) ALTERNATIVE PROCEDURE.—The Secretary may establish a procedure to authorize, on a shipment-by-shipment, shipper-by-shipper, or other basis the importation of fish or fish products from a vessel of a nation issued a negative certification under paragraph (1) if the Secretary determines that—

(A) the vessel has not engaged in illegal, unreported, or unregulated fishing under an international fishery management agreement to which the United States is a party; or

(B) the vessel is not identified by an international fishery management organization as participating in illegal, unreported, or unregulated fishing activities.

(3) EFFECT OF CERTIFICATION.—

(A) IN GENERAL.—The provisions of section 101(a) and section 101(b)(3) and (4) of this Act (16 U.S.C. 1826a(a), (b)(3), and (b)(4))—

(i) shall apply to any nation identified under subsection (a) for which the Secretary has issued a negative certification under this subsection; but

(ii) shall not apply to any nation identified under subsection (a) for which the Secretary has issued a positive certification under this subsection.

(B) EXCEPTIONS.—Subparagraph (A)(i) does not apply—

(i) to the extent that such provisions would apply to sport fishing equipment or to fish or fish products not managed under the applicable international fishery agreement; or

(ii) if there is no applicable international fishery agreement, to the extent that such provisions would apply to fish or fish products caught by vessels not engaged in illegal, unreported, or unregulated fishing.

(e) ILLEGAL, UNREPORTED, OR UNREGULATED FISHING DEFINED.—

(1) IN GENERAL.—In this Act the term ‘illegal, unreported, or unregulated fishing’ has the meaning established under paragraph (2).

(2) SECRETARY TO DEFINE TERM WITHIN LEGISLATIVE GUIDELINES.—Within 3 months after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, the Secretary shall publish a definition of the term “illegal, unreported, or unregulated fishing” for purposes of this Act.

(3) GUIDELINES.—The Secretary shall include in the definition, at a minimum—

(A) fishing activities that violate conservation and management measures required under an international fishery management agreement to which the United States is a party, including catch limits or quotas, capacity restrictions, bycatch reduction requirements, and shark conservation measures;

(B) overfishing of fish stocks shared by the United States, for which there are no applicable international conservation or management measures or in areas with no applicable international fishery management organization or agreement, that has adverse impacts on such stocks; and

(C) fishing activity that has an adverse impact on seamounts, hydrothermal vents, and cold water corals located beyond national jurisdiction, for which there are no applicable conservation or management measures or in areas with no applicable international fishery management organization or agreement.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for fiscal years 2007 through 2013 such sums as are necessary to carry out this section.

#### **SEC. 610. EQUIVALENT CONSERVATION MEASURES.**

(a) IDENTIFICATION.—The Secretary shall identify, and list in the report under section 607—

(1) a nation if—



(A) fishing vessels of that nation are engaged, or have been engaged during the preceding 3 years in fishing activities or practices—

(i) in waters beyond any national jurisdiction that result in bycatch of a protected living marine resource; or

(ii) beyond the exclusive economic zone of the United States that result in bycatch of a protected living marine resource shared by the United States;

(B) the relevant international organization for the conservation and protection of such resources or the relevant international or regional fishery organization has failed to implement effective measures to end or reduce such bycatch, or the nation is not a party to, or does not maintain cooperating status with, such organization; and

(C) the nation has not adopted a regulatory program governing such fishing practices designed to end or reduce such bycatch that is comparable to that of the United States, taking into account different conditions.

(2) a nation if—

(A) fishing vessels of that nation are engaged, or have been engaged during the preceding [calendar year] 3 years, in fishing activities or practices in waters beyond any national jurisdiction that target or incidentally catch sharks; and

(B) the nation has not adopted a regulatory program to provide for the conservation of sharks, including measures to prohibit removal of any of the fins of a shark (including the tail) and discarding the carcass of the shark at sea, that is comparable to that of the United States, taking into account different conditions.

(b) CONSULTATION AND NEGOTIATION.—The Secretary, acting through the Secretary of State, shall—

(1) notify, as soon as possible, the President and nations that have been identified under subsection (a), and also notify other nations whose vessels engage in fishing activities or practices described in subsection (a), about the provisions of this section and this Act;

(2) initiate discussions as soon as possible with all foreign governments which are engaged in, or which have persons or companies engaged in, fishing activities or practices described in subsection (a), for the purpose of entering into bilateral and multilateral treaties with such countries to protect such species;

(3) seek agreements calling for international restriction on fishing activities or practices described in subsection (a) through the United Nations, the Food and Agriculture Organization's Committee on Fisheries, and appropriate international fishery management bodies; and

(4) initiate the amendment of any existing international treaty for the protection and conservation of such species to which the United States is a party in order to make such treaty consistent with the purposes and policies of this section.

(c) CONSERVATION CERTIFICATION PROCEDURE.—

(1) DETERMINATION.—The Secretary shall establish a procedure consistent with the provisions of subchapter II of chapter 5 of title 5, United States Code, for determining whether the government of a harvesting nation identified under subsection (a) and listed in the report under section 607—

(A) has provided documentary evidence of the adoption of a regulatory program governing the conservation of the protected living marine resource that is comparable to that of the United States, taking into account different conditions, and which, in the case of pelagic longline fishing, includes mandatory use of circle hooks, careful handling and release equipment, and training and observer programs; and

(B) has established a management plan containing requirements that will assist in gathering species-specific data to support international stock assessments and conservation enforcement efforts for protected living marine resources.

(2) PROCEDURAL REQUIREMENT.—The procedure established by the Secretary under paragraph (1) shall include notice and opportunity for comment by any such nation.

(3) CERTIFICATION.—The Secretary shall certify to the Congress by January 31, 2007, and biennially thereafter whether each such nation has provided the documentary evidence described in paragraph (1)(A) and established a management plan described in paragraph (1)(B).

(4) ALTERNATIVE PROCEDURE.—The Secretary may establish a procedure to authorize, on a shipment-by-shipment, shipper-by-shipper, or other basis the importation of fish or fish products from a vessel of a nation issued a negative certification under paragraph (1) if the Secretary determines that such imports were harvested by practices that do not result in bycatch of a protected marine species, or were harvested by practices that—

(A) are comparable to those of the United States, taking into account different conditions; and

(B) include the gathering of species specific data that can be used to support international and regional stock assessments and conservation efforts for protected living marine resources.

(5) EFFECT OF CERTIFICATION.—The provisions of section 101(a) and section 101(b)(3) and (4) of this Act (16 U.S.C. 1826a(a), (b)(3), and (b)(4)) (except to the extent that such provisions apply to sport fishing equipment or fish or fish products not caught by the vessels engaged in illegal, unreported, or unregulated fishing) shall apply to any nation identified under subsection (a) for which the Secretary has issued a negative certification under this subsection, but shall not apply to any nation identified under subsection (a) for which the Secretary has issued a positive certification under this subsection.

(d) INTERNATIONAL COOPERATION AND ASSISTANCE.—To the greatest extent possible consistent with existing authority and the availability of funds, the Secretary shall—

(1) provide appropriate assistance to nations identified by the Secretary under subsection (a) and international organiza-

tions of which those nations are members to assist those nations in qualifying for certification under subsection (c);

(2) undertake, where appropriate, cooperative research activities on species statistics and improved harvesting techniques, with those nations or organizations;

(3) encourage and facilitate the transfer of appropriate technology to those nations or organizations to assist those nations in qualifying for certification under subsection (c); and

(4) provide assistance to those nations or organization sin designing and implementing appropriate fish harvesting plans.

(e) PROTECTED LIVING MARINE RESOURCE DEFINED.—In this section the term “protected living marine resource”—

(1) means non-target fish, sea turtles, or marine mammals that are protected under United States law or international agreement, including the Marine Mammal Protection Act, the Endangered Species Act, the Shark Finning Prohibition Act, and the Convention on International Trade in Endangered Species of Wild Flora and Fauna; but

(2) does not include species, except sharks, managed under the Magnuson-Stevens Fishery Conservation and Management Act, the Atlantic Tunas Convention Act, or any international fishery management agreement.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for fiscal years 2007 through 2013 such sums as are necessary to carry out this section.

\* \* \* \* \*

## 3 August 2016

PAUL B. UHRLAUER, AZ  
 PHOENIX 48 438 R  
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 ALMAHUTZ, F. HORNKALE, CH  
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 ALAN LOWMEYER, CA  
 MATTHEW CARTWRIGHT, PA  
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 NANCY J. TOSSE, CA  
 KENNETH DUFFELL, RI  
 RUSSELL GARFIELD, AZ  
 LONN APPS, CA  
 JARED POLS, IN  
 WEL. LACY CLAY, MO

DAVID WALKINS  
DEMOCRATIC STAFF DIRECTOR


Dear Mr. Chairman:

On July 13, 2016, the Committee on Natural Resources favorably reported as amended H.R. 4576, the Ensuring Access to Pacific Fisheries Act, by unanimous consent. My staff has shared the reported text of the bill with your staff.

The reported bill contains provisions regarding fishery exports and imports, a matter within the jurisdiction of the Committee on Ways and Means. I ask that the Committee on Ways and Means not seek a sequential referral of the bill so that it may be scheduled by the Majority Leader when the House returns from the August District Work Period. This concession in no way affects your jurisdiction over the subject matter of the bill, and it will not serve as precedent for future referrals. In addition, should a conference on the bill be necessary, I would support your request to have the Committee on Ways and Means represented on the conference committee. Finally, I would be pleased to include this letter and any response in the Congressional Record to document this agreement.

Thank you for your consideration of my request, and I look forward to further opportunities to work with you this Congress.

Sincerely,

  
Rob Bishop  
Chairman  
Committee on Natural Resources

cc: The Honorable Paul D. Ryan, Speaker  
The Honorable Kevin McCarthy, Majority Leader  
The Honorable Raul Grijalva, Ranking Member, Committee on Natural Resources  
The Honorable Thomas J. Wickham, Jr., Parliamentarian

COMMITTEE ON WAYS AND MEANS

U.S. HOUSE OF REPRESENTATIVES  
WASHINGTON, DC 20515

August 3, 2016

The Honorable Rob Bishop  
Chairman  
Committee on Natural Resources  
1324 Longworth House Office Building  
Washington, DC 20515

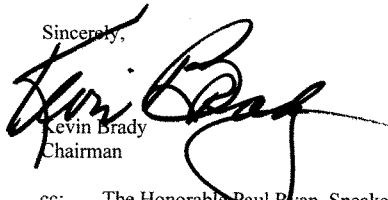
Dear Chairman Bishop,

Thank you for your letter concerning H.R. 4576, the "Ensuring Access to Pacific Fisheries Act." As you note, the bill contains provisions within the Rule X jurisdiction of the Committee on Ways and Means.

I appreciate your willingness to work with my Committee on this legislation. In order to allow H.R. 4576 to move expeditiously to the House floor, I will not seek a sequential referral on this bill. The Committee on Ways and Means takes this action with our mutual understanding that by foregoing formal consideration of H.R. 4576, we do not waive any jurisdiction over subject matter contained in this or similar legislation, and that our Committee will be appropriately consulted and involved as this bill or similar legislation moves forward. Our Committee also reserves the right to seek appointment of an appropriate number of conferees to any House-Senate conference involving this or similar legislation, and asks that you support any such request.

I would appreciate your response to this letter confirming this understanding, and would request that you include a copy of this letter and your response in the Congressional Record during the floor consideration of this bill. Thank you in advance for your cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin Brady", is written over the typed name and title.

Kevin Brady  
Chairman

cc: The Honorable Paul Ryan, Speaker  
The Honorable Sander Levin  
The Honorable Raul Grijalva